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July 2001

DEFENSE BUDGET: Need for Continued Visibility Over Use of Contingency Funds

United States General Accounting Office

GAO

Report to the Subcommittee on Defense, Committee on Appropriations, U.S. Senate

July 2001

DEFENSE BUDGET

Need for Continued Visibility Over Use of Contingency Funds





GAO-01-829

GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

July 6, 2001

The Honorable Daniel K. Inouye
Chairman
The Honorable Ted Stevens
Ranking Minority Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

Since the end of the Persian Gulf War in February 1991, the Department of Defense (DOD) has reported over $25 billion in incremental costs for its overseas contingency operations.[1] These operations include the enforcement of no-fly zones, humanitarian assistance, and peace enforcement operations. The majority of these costs ($22 billion) have been incurred in the Balkans (Bosnia and Kosovo) and Southwest Asia. In fiscal year 2001, U.S. military forces are continuing to participate in a number of contingency operations, primarily in the Balkans and Southwest Asia. Appendix I contains a map depicting the location of DOD's operations for fiscal year 2001.

In response to your request, we examined (1) the adequacy of DOD's incremental contingency operations funding for all ongoing contingency operations in fiscal year 2001, (2) DOD's estimated contingency operations costs for fiscal year 2002, and (3) the ramifications of DOD's plan to change the method for funding its operations in Southwest Asia. At your request, we are also continuing to examine DOD's management of its contingency operations expenditures, including the economy and efficiency with which these funds are spent, and will report our results at a later date.

[1]As used in this report, "incremental costs" means those directly attributable costs that would not have been incurred if it were not for the operation. It should be recognized that DOD's financial systems cannot reliably determine costs and that only the total obligations are captured by the Department's accounting systems. The services use various management information systems to identify incremental obligations and to estimate costs. Although we use the term costs throughout this report as a convenience, we are actually referring to DOD's obligation of funds.

Results in Brief

Existing funds are sufficient to cover DOD's estimated costs for contingency operations for fiscal year 2001. In January 2001, the Office of the Secretary of Defense (Comptroller) revised the estimates made in developing the President's fiscal year 2001 budget on the basis of information provided by the military services and other defense agencies and its own assessment of what constituted legitimate contingency costs. The Comptroller's office concluded that some costs had increased while other costs had decreased and that, on balance, there was sufficient funding for fiscal year 2001. On the basis of more current data through June 2001, we made an updated assessment of fiscal year 2001 contingency operations' costs, concluding that existing contingency funding was still sufficient to cover estimated costs and that the latest available data suggested that about $121 million may remain available at the end of the fiscal year. Accordingly, the administration's request for $32 million in additional appropriations for the Army reserve component's increased participation in contingency operations, which was included in the original fiscal year 2001 supplemental appropriation request, is unnecessary. The request for fiscal year 2001 supplemental funding has since been amended, eliminating the $32 million and requesting that the Congress rescind $61 million in funds previously appropriated for contingency operations. The Department is taking action to reprogram the remaining funds.

Since DOD developed its original fiscal year 2002 budget estimate for contingency operations in fiscal year 2002, estimated costs have declined by $284 million. Specifically, in April 2001, the Army in Europe estimated that its costs in the Balkans may decline by as much as $284 million because of a variety of factors, including reductions in the number of personnel and the amount of equipment deployed there. In June 2001, the administration submitted a revised fiscal year 2002 budget for DOD, which reflected the $284 million decline. In addition, the administration is currently conducting a review of its policy toward Iraq, the results of which could affect the scope of DOD's operations in Southwest Asia.

DOD is transferring the funding for its Southwest Asia operations to the services' direct appropriations accounts beginning in fiscal year 2002 rather than fund these operations through its contingency operations fund, which could have both positive and negative ramifications. The positive ramification is that appropriating funds directly to the services' appropriations accounts could provide an added incentive to better control costs. The negative ramification is the possible loss of visibility for Southwest Asia funds because of (1) the substantial movement of funds within the services' operation and maintenance accounts as has occurred

over a period of years and (2) the possible discontinuance of cost reporting for operations in Southwest Asia.

We have identified several matters for congressional consideration regarding the need for additional funds in fiscal year 2001, the need to ensure that the President's budget request for fiscal year 2002 is adjusted upon the completion of the Iraq policy review to reflect the results of the review, and steps that could be taken to mitigate the potentially negative consequences of appropriating funds for Southwest Asia operations directly to the services' appropriations accounts.

Background

During fiscal year 2001, U.S. military forces are participating or have participated in a number of contingency operations, and the Congress has appropriated funds to cover DOD's costs. The largest ongoing contingency operations are in the Balkans and Southwest Asia. DOD budgets for the cost of ongoing contingency operations, and the Congress has appropriated funds for these operations to the services' military personnel accounts and the Overseas Contingency Operations Transfer Fund (the Transfer Fund). DOD transfers funds out of the Transfer Fund to the DOD components' appropriation accounts as operations unfold during the year. Any moneys remaining in the Transfer Fund at the end of a fiscal year remain available until expended. In the case of new, expanded, or otherwise unfunded operations, such as at the onset of operations involving Kosovo, costs are not budgeted in advance. DOD's components request funds from the Transfer Fund as long as they are available or use funds appropriated for other activities that are planned for later in the fiscal year. If these funds are not replenished through supplemental appropriations or the reprogramming of funds from other sources, the components have to absorb the costs within their regular appropriations.

Out of the $25 billion in the incremental costs that DOD has reported for overseas contingency operations since 1991, $15.1 billion has been for U.S. military involvement in the Balkans through September 2000. U.S. involvement in the Balkans began in July 1992 as part of humanitarian relief efforts in Bosnia, Herzegovina, and Croatia and expanded in April 1993, when the United States began to participate in the North Atlantic Treaty Organization's (NATO) enforcement of a no-fly zone over Bosnia and Herzegovina. In December 1995, U.S. troops deployed as part of a multilateral coalition under NATO command in and around Bosnia to assist in implementing the General Framework Agreement (also known as the Dayton Agreement). The number of U.S. military personnel in Bosnia has steadily declined from about 18,000 in February 1996 to about 4,300 in

April 2001. In addition to U.S. military personnel in Bosnia, about 250 U.S. military personnel are stationed in Hungary, which shares a border with Bosnia, in support of operations in Bosnia.

In June 1999, the United States began providing troops for the NATO-led Kosovo Force, whose mission is peace enforcement in Kosovo. The United States is currently providing about 5,600 troops as part of a NATO force. In addition, the United States has about 400 troops in Macedonia to operate a staging base for U.S. troops entering and departing Kosovo.

From the end of the Persian Gulf War in 1991 through September 2000, DOD reported $7.1 billion in incremental costs for its operations in Southwest Asia. U.S. forces have been involved in enforcing no-fly zones in Southwest Asia since the end of the Persian Gulf War. The size of the U.S. force varies substantially depending on the level of tension with Iraq. Of the 15,000-20,000 personnel in the area, many are Navy and Marine Corps personnel deployed on ships.

Existing Funds Are Sufficient to Cover the Cost of DOD's Contingency Operations in Fiscal Year 2001

The funds that the Congress appropriated for fiscal year 2001 contingency operations should be sufficient to cover the estimated costs for these operations. In January 2001, DOD estimated that there were sufficient funds for fiscal year 2001 operations but that these funds will be completely utilized, leaving no carry over of funds in the Overseas Contingency Operations Transfer Fund that could be applied to funding requirements for fiscal year 2002. Our June 2001 analysis of DOD's costs reached the same conclusion: that there are sufficient funds for contingency operations in fiscal year 2001 but that June 2001 data suggest that after adjusting for cost increases and decreases about $121 million may be available at the end of the fiscal year, owing largely to management efficiencies that the Army in Europe has achieved in Balkan operations. Because funds already appropriated are sufficient for DOD's fiscal year 2001 operations, a requested $32 million for contingency operations contained in the original June 2001 request for supplemental funding in fiscal year 2001 for DOD is unnecessary. The request for fiscal year 2001 supplemental funding has since been amended, eliminating the $32 million and requesting that the Congress rescind $61 million in funds previously appropriated for contingency operations. DOD is taking action to reprogram part of the savings achieved by the Army in Europe.

DOD Revises Cost Estimates but Concludes That Funding Is Sufficient

On the basis of its review of contingency operations costs, completed in January 2001, DOD concluded that existing funds are sufficient to cover the estimated cost of these operations. According to DOD's budget submission for fiscal year 2001, ongoing contingency operations in fiscal year 2001 were estimated to cost almost $4.2 billion. (See table 1.) On an operational basis, about $3.1 billion (75 percent) was for operations in the Balkans. Most of the remainder was for Southwest Asia, with the balance of about $4 million planned for operations in East Timor.

Table 1: Estimated Costs for DOD's Contingency Operations, Fiscal Year 2001

Dollars in millions				
	Military personnel	Operation and maintenance	Miscellaneous procurement	Total
Bosnia	$153.4	$1,234.4	$20.8	$1,408.6
Kosovo	194.5	1,455.9	62.6	1,713.0
Total Balkans	**$347.9**	**$2,690.3**	**$83.4**	**$3,121.6**
Southwest Asia	144.8	913.7		1,058.5
East Timor	0	3.9		3.9
Total	**$492.7**	**$3,607.9**	**$83.4**	**$4,184.0**

Source: DOD's fiscal year 2001 President's budget submission.

In its January 2001 review, the Office of the Secretary of Defense (Comptroller) revised the estimates made in developing the President's budget for fiscal year 2001.[2] The Comptroller's review was based on information provided by the military services and defense agencies (such as the Defense Logistics Agency) and on its own assessment of what constituted legitimate contingency costs. Overall, the Comptroller's office initially concluded that (1) some costs had increased while others had decreased and that, on balance, there was sufficient funding for fiscal year 2001 and (2) $104.2 million would remain available to fund fiscal year 2002 requirements.

[2]The President's budget is developed almost a year before the fiscal year in which it takes effect. We have previously reported that developing accurate budget estimates for contingency operations is difficult because DOD has to make judgments about a variety of factors, such as the size and composition of the military force to be used and because events may differ from the assumptions. (See *Contingency Operations: Defense Cost and Funding Issues* [GAO/NSIAD-96-121BR, Mar. 15, 1996]). The budget estimate, therefore, is a snapshot in time.

Among the services, the Comptroller's office estimated that the Air Force's cost requirements had increased by $90 million while the Army's and Navy's cost requirements had decreased by $52 million and $107 million, respectively. The balance of the changes occurred in the defense agencies, which experienced a net decline in costs. Included in its revised estimate was a Comptroller's office adjustment to the Air Force's and Navy's estimates. The Comptroller's office disallowed $41 million in the Air Force's costs in Southwest Asia because it concluded that these costs went beyond the critical tasks of the relocation of headquarters in Saudi Arabia and so were not eligible for contingency operation funding. Regarding the Navy, the Comptroller's office disallowed $121 million in flying-hour costs because it concluded that the associated flying hours were performed as part of normal training levels. In response to appeals from the Air Force and Navy after the Comptroller's office completed its January 2001 review, the Deputy Secretary of Defense restored a large part of the fund reduction: the full $41 million to the Air Force and $63.2 million of the Navy's $121 million in flying hour costs. The sum of these restored funds, which will be taken from the Transfer Fund, exactly equaled the $104.2 million that the Comptroller's office previously estimated would remain available at the end of the fiscal year to fund fiscal year 2002 requirements.

DOD Does Not Need Supplemental Funding for Fiscal Year 2001 Contingency Costs

On the basis of more current data through June 2001, we updated the assessment of contingency operations' costs for fiscal year 2001, concluding that existing contingency funding was still sufficient to cover estimated costs and that some funds may now be available at the end of fiscal year 2001. In June 2001, the administration submitted a request for $6.1 billion in supplemental funding for DOD for fiscal year 2001, which included $32 million for the military personnel costs of increased Army reserve component participation in contingency operations. On the basis of our analysis, we concluded that while the Army's military personnel costs had increased, other contingency operations costs had decreased, and that there is no need for the $32 million in supplemental funding for contingency operations in fiscal year 2001. The request for fiscal year 2001 supplemental funding has since been amended, eliminating the $32 million.

Our assessment showed that the largest change since the Comptroller's office's January 2001 revised estimate occurred in the Army's costs, while the Navy and Air Force reported little or no net change in their cost estimates. We estimate that the Army's overall costs have declined by $128 million—with higher military personnel costs more than offset by lower operation and maintenance costs. The Army increased its estimate

of military personnel costs by $72 million because of a greater reliance on reserve units in Bosnia. This increase was more than offset by a $200 million decline in the Army in Europe's estimated operation and maintenance costs for the Balkans. This amount included a $138.5 million decline in Kosovo costs owing to a variety of management efficiencies, including reduced contract costs, airlift, and other transportation costs, and fewer soldiers and equipment. It also included a $61.5 million net reduction in Bosnia costs owing to a reduction in the number of soldiers and the amount of equipment there and to management efficiencies.

There has been no net change in the Navy's estimated costs since the Comptroller's office's review. However, since it developed its input for the President's budget for fiscal year 2001, the cost per flying hour for a number of Navy aircraft has increased substantially. For example, the cost per flying hour for the F-14 aircraft rose 21 percent; for the F-18 aircraft, 7 percent; and for the EA-6B aircraft, 14 percent. Although the Navy increased its budget estimate to reflect those higher costs, as discussed earlier, the Comptroller's office disallowed a larger amount—$121 million in flying-hour costs—because it concluded that rather than increasing funds for its primary program (its training program), the Navy instead used contingency flying hours to increase its primary program flying. According to the Navy, senior Navy leadership plans to address the overall issue of the adequacy of funds to support its flying-hour program by requesting additional funds for the program in the June 2001 request for supplemental appropriations for DOD. Consequently, the Navy does not plan to seek additional funds for its participation in contingency operations. Calculating contingency hours will no longer be an issue after fiscal year 2001 because, beginning in fiscal year 2002, the Navy will fund all flying hours in its overall flying-hour program; therefore, there will be no need to separate contingency flying hours.

We estimate that the Air Force's costs increased slightly—by $7 million—from the Comptroller's office's January 2001 review on the basis of discussions with the Air Force commands in the United States, Europe, and the Pacific, and the Air Force's headquarters personnel.

On balance, we estimate that after adjusting for (1) the Army's cost increases and decreases, including the Army in Europe's $200 million cost reduction, and (2) the Air Force's cost increase, there could be $121 million left at the end of fiscal year 2001. That amount could be applied against funding requirements for contingency operations in fiscal year 2002. However, the Comptroller's office advised us that it plans to address the $200 million in reduced costs for the Army in Europe by

seeking a rescission of some of these funds and reprogramming the balance. The supplemental request for fiscal year 2001 has been amended to include a request that the Congress rescind $61 million in funds previously appropriated for contingency operations. DOD is taking action to reprogram the remaining $139 million and proposes that it be used for noncontingency operations. The Comptroller's office also advised us that unless other savings are identified, the services would have to fund any increased costs within their existing budgets.

Cost Estimates for Fiscal Year 2002 Have Changed and a Key Decision Affecting Costs Is Pending

Since DOD developed its original budget estimate for contingency operations in fiscal year 2002, estimated costs have declined by several hundred million dollars. In June 2001 the administration submitted a revised fiscal year 2002 budget for DOD, which included $4 billion for ongoing contingency operations in the Balkans and Southwest Asia. (See table 2.) This submission reflected a $284 million decline in the Army's costs in the Balkans. The budget estimate may be further altered when the administration completes its Iraq policy review, which may affect the scope of operations in Southwest Asia.

Table 2: DOD's Estimated Overseas Contingency Costs, Fiscal Year 2002

Dollars in millions			
	Military personnel	**Operation and maintenance**	**Total**
Army	$462.9	$2,064.3	**$2,527.2**
Navy	60.5	141.9	**202.4**
Marine Corps	6.2	4.6	**10.8**
Air Force	114.4	831.4	**945.8**
Other DOD and classified programs		340.9	**340.9**
Total	**$644.0**	**$3,383.1**	**$4,027.1**

Source: DOD.

As shown in table 2, the bulk of the costs (84 percent) are for operation and maintenance, and the balance is for military personnel. By service, the Army has the bulk of the costs (63 percent), followed by the Air Force (23 percent). By operation, the bulk of the costs are in the Balkans (71 percent), and the balance is in Southwest Asia.

In April 2001, the Army in Europe provided us with its revised cost estimate, which indicates that its costs in the Balkans could decline by as much as $284 million. It estimated that its share of the Army's costs in Bosnia, which are included in the budget estimate, could decline by as

much as $171 million–from $700 million to $529 million. The decline is a result of a decision to reduce the amount of personnel and equipment in Bosnia. It is a net figure reflecting these declines and expected increases in other areas, including contractor costs. The Army in Europe also estimated that its share of the Army's costs in Kosovo, which are also included in the budget estimate, could decline by as much as $113 million—from $1.084 billion to $971 million. The decline is a result of reductions in personnel and equipment and declines in other costs, including contractor costs and airlift. It is a net figure reflecting these declines and expected increases in other areas, including an increase in the number of smaller camps, referred to as "outposts."

Our initial draft of this report, developed before the administration submitted its revised DOD budget for fiscal year 2002, noted that the Army's cost estimate for operations in the Balkans in fiscal year 2002 had declined substantially. This led us to conclude that since DOD developed its original January 2001 budget estimate considerably less funding might be needed for fiscal year 2002. In the June 2001 revision to DOD's budget for contingency operations in fiscal year 2002, the administration reduced DOD's budget request by $284 million to reflect the lower Army cost estimate for Balkan operations.

The administration is conducting an Iraq policy review, the outcome of which will affect DOD's costs in Southwest Asia in fiscal year 2002 and beyond. According to DOD officials, the review includes a reassessment of the level of operations involving Iraq. The review could result in a decision to change the level of air operations or keep them at their current level. Until that review is completed, which is scheduled for June 2001, future costs cannot be accurately estimated. Therefore, DOD's budget estimate involving Southwest Asia may need to be adjusted, depending on the outcome of the policy review.

Because Operations in Southwest Asia Will No Longer Be Funded as Contingency Operations, Some Safeguards May Be Needed

DOD is transferring the funding for operations in Southwest Asia to the services' individual appropriations accounts beginning in fiscal year 2002 rather than fund them through the Overseas Contingency Operations Transfer Fund. DOD has concluded that since operations in Southwest Asia have been ongoing for 10 years and there appears to be no plan to withdraw forces in the near term, the requirements there should no longer be funded from the contingency fund. We have identified both positive and negative ramifications of such a decision and some steps that the Congress may wish to consider that could mitigate the negative consequences.

Shifting funding for contingency operations to the services' individual appropriations accounts could provide an added incentive to better control costs. Currently, DOD seeks and the Congress provides funding through the Transfer Fund on the basis of the services' budget estimates and the Comptroller's office's review of those estimates. Funds appropriated to the Transfer Fund are solely for the support of contingency operations. We are currently examining how contingency funds are spent and so are not in a position at this time to conclude whether funds are being spent in an economical and efficient manner. However, we believe that there is little financial incentive for the services to minimize costs under the current system because they do not have to weigh funding for contingency operations against competing budgetary priorities, since contingency operations are funded separately.

But there are potentially negative consequences associated with the proposed shift, which involve the visibility of funds. Most contingency costs are funded through the operation and maintenance account. Funds appropriated to the operation and maintenance account of each of the services and other DOD components can be used for a wide variety of purposes, including training, base operations, and real property maintenance. In committee reports that accompany appropriations legislation for DOD, the Congress provides DOD with guidance on how the funds are to be spent. However, we have previously reported that billions of dollars in funds move within the services' operation and maintenance accounts, as the services try to balance competing budgetary needs. For example, we reported in February 2000 that from fiscal year 1994 through fiscal 1998, DOD changed funding amounts for 245 subactivities within the services' operation and maintenance accounts by almost $43 billion

compared with the amounts the Congress initially designated for them.[3] These changes involved both increases and decreases in the amounts designated by the Congress. Once funds for operations in Southwest Asia are appropriated directly to the services' appropriation accounts, the visibility of such movements of funds as they pertain to operations in Southwest Asia may not be clear.

Visibility over the cost of operations in Southwest Asia could also be lost as a result of the proposed funding shift. In accordance with Volume 12, Chapter 23 of DOD Financial Management Regulations, the cost of the participation in contingency operations is reported monthly. This reporting provides important visibility on the level of resources needed to sustain operations. The reporting also provides insight into how the funds are spent because reported costs are placed in categories, such as operation tempo, airlift, temporary duty travel, and facilities and base support. As discussed earlier, DOD has reported that its costs for Southwest Asia totaled $7.1 billion from 1991 through September 2000. It is unclear as to whether cost reporting for Southwest Asia will continue once it is no longer considered a contingency operation for funding purposes.

Conclusions

The $32 million in supplemental funding for fiscal year 2001 requested for the Army's military personnel costs in support of contingency operations is unnecessary. The administration has since amended its request for supplemental funding to withdraw the request for this $32 million. The budget outlook for contingency operations for fiscal year 2002 may be affected by the results of the administration's Iraq policy review, which could result in a decision to change the level of air operations or keep them at their current level. The shift of funding from the Overseas Contingency Operations Transfer Fund to the services' direct appropriations could result in a significant loss of visibility over both costs and the use of funds for operations in Southwest Asia.

[3]See *Defense Budget: DOD Should Further Improve Visibility and Accountability of O&M Fund Movements* (GAO/NSIAD-00-18, Feb. 9, 2000.) We use the term "congressionally designated or "congressional designation" to refer to amounts set forth in an appropriation act's conference report.

Matters for Congressional Consideration

Regarding supplemental funding for fiscal year 2001, the Congress may wish to consider the $32 million that was included in the supplemental funding request for increased Army military personnel contingency operations costs as withdrawn, on the basis of the amended supplemental request.

The Congress may also wish to consider the following two actions in appropriating funds for contingency operations for fiscal year 2002:

- Regarding the fiscal year 2002 budget for Southwest Asia operations, upon completion of the Iraq policy review the Congress may wish to have DOD provide an updated budget estimate reflecting the results of the policy review.
- Regarding maintaining visibility over funding for operations in Southwest Asia, the Congress may wish to direct that (1) appropriate committees be provided with written notification if funds identified for operations in Southwest Asia are obligated for any other purposes and (2) DOD continue to report monthly on the costs of its operations in Southwest Asia.

Agency Comments

In oral comments on a draft of this report, the Office of the Under Secretary of Defense (Comptroller) and service budget officials responsible for contingency operations costs concurred with the contents of this report. The Comptroller's office advised us that DOD agrees with the basic conclusions and findings addressed in the report.

Scope and Methodology

To identify and assess the contingency cost information contained in this report, we conducted work at the Office of the Secretary of Defense; the Departments of the Army, Navy, and Air Force; U.S. Army Forces Command; U.S. Army Europe; 1st Infantry Division, Wurzburg, Germany; 3rd Infantry Division, Fort Stewart, Georgia; U.S. Navy Pacific Fleet; Naval Air Forces Pacific; U.S. Pacific Command; U.S. Army Pacific; Marine Forces Pacific; Air Force Air Combat Command; and the U.S. Special Operations Command. At these locations, we reviewed contingency operations cost reports; DOD's budget documents for fiscal years 2001 and 2002; and documents that supported contingency-related costs. We did not verify the data used by the Defense Finance and Accounting Service to create the contingency operations cost reports.

We performed our work from January through June 2001 in accordance with generally accepted government auditing standards.

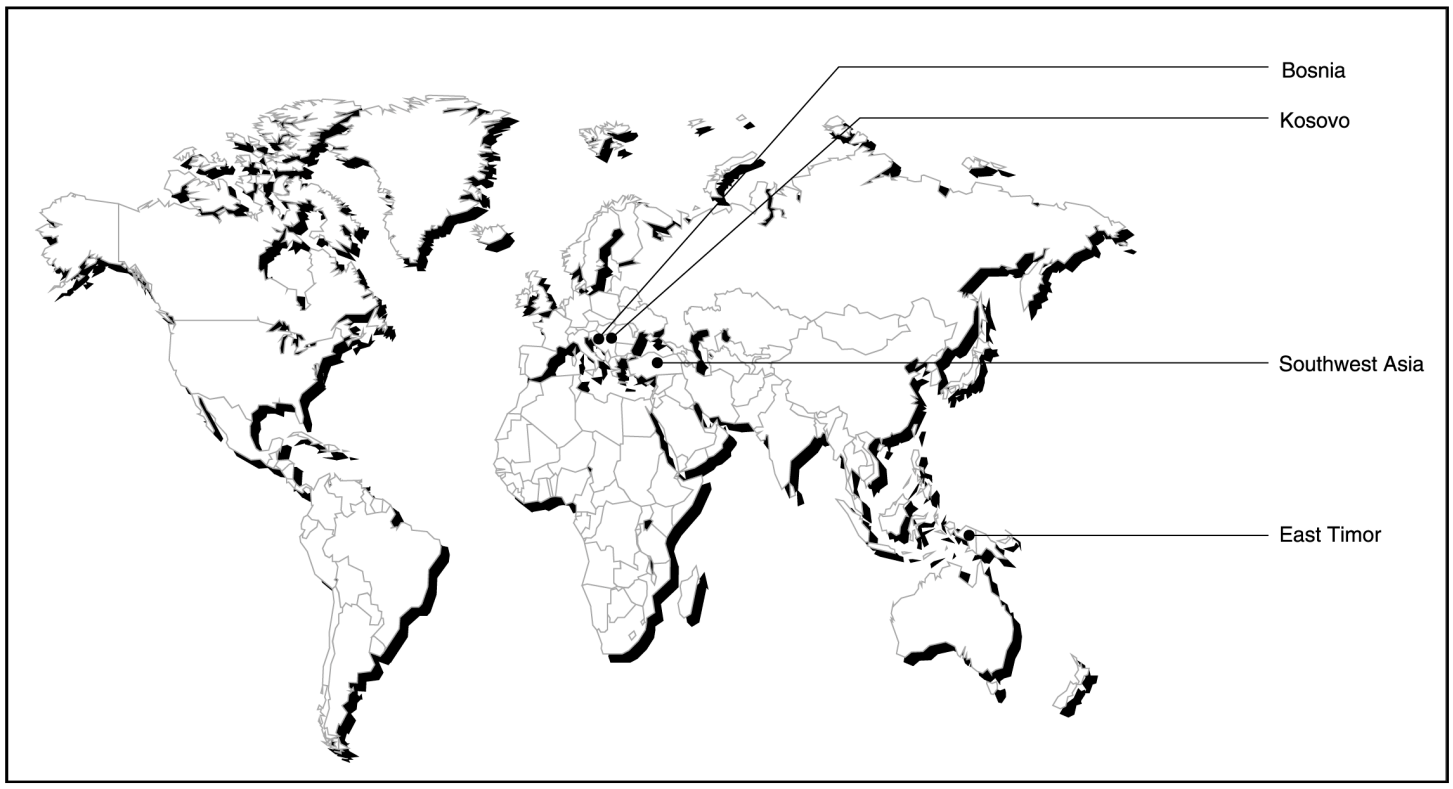
We are sending copies of this report to the Chairman and Ranking Minority Member, Subcommittee on Defense, House Committee on Appropriations; the Secretary of Defense; the Under Secretary of Defense (Comptroller); and the Director, Office of Management and Budget. Copies of this report will also be made available to others upon request.

If you have any questions regarding this report, please call me on (757) 552-8100. Principal contributors to this report were Steve Sternlieb, Ray S. Carroll, Lester Ward, and Laura Talbott.



Neal P. Curtin, Director
Defense Capabilities and Management

Appendix I: Location of Major Contingency Operations



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June 2002

THE WHITE HOUSE: Allegations of Damage During the 2001Presidential Transition

United States General Accounting Office

GAO

Report to the Honorable Bob Barr
House of Representatives

June 2002

THE WHITE HOUSE

Allegations of Damage During the 2001 Presidential Transition



GAO-02-360

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Abbreviations

EEOB	Eisenhower Executive Office Building
EOP	Executive Office of the President
GSA	General Services Administration
NARA	National Archives and Records Administration
NEOB	New Executive Office Building
OA	Office of Administration
ONDCP	Office of National Drug Control Policy
WHCA	White House Communications Agency

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Accountability * Integrity * Reliability

United States General Accounting Office
Washington, D.C. 20548

June 7, 2002

The Honorable Bob Barr
House of Representatives

Dear Mr. Barr:

This report responds to your June 4, 2001, request that we review alleged damage at the White House during the 2001 presidential transition. We agreed to determine (1) whether damage, vandalism, or pranks occurred in the White House and the adjacent Eisenhower Executive Office Building (EEOB) during the transition by obtaining the observations of Executive Office of the President (EOP) staff and preparers of White House office space during the transition and reviewing any available documentation, as well as obtaining the comments of former Clinton administration staff; (2) to the extent possible, how the 2001 presidential transition compared with previous presidential transitions in terms of damage, vandalism, or pranks; and (3) what steps, if any, should be taken to help prevent and document any vandalism during future presidential transitions.

Background

On January 29, 2001, you wrote us that you had become increasingly concerned about media reports of damage to the White House and the EEOB that was discovered by the incoming Bush administration and asked that we investigate whether damage may have been deliberately caused by former Clinton administration staff. We subsequently asked EOP and the General Services Administration (GSA) whether they had any information that may be responsive to your request. On April 18, 2001, the director of the Office of Administration (OA),[1] an EOP unit, wrote us a letter indicating that the White House had no record of damage that "may have been deliberately caused by employees of the prior [a]dministration" and that "….repair records do not contain information that would allow someone to determine the cause of damage that is being repaired."

In late May and early June 2001, these allegations resurfaced in the news media and on June 4, you asked us to investigate the matter further. On June 5, 2001, the counsel to the president provided us with a list of damage that was discovered in the White House complex during the first days of the

[1]This official's title is also special assistant to the president.

Bush administration. In his transmittal letter, the counsel to the president said that the list "…may be responsive to your earlier request for written records documenting damage deliberately caused by employees of the prior [a]dministration…." Further, the counsel said that the list was not the result of a comprehensive or systematic investigation into the issue and should not be considered a complete record of the damage that was found. The list was prepared by OA, which provides common administrative support and services to units within the White House complex, which may include the procurement and maintenance of computers, telephones, furniture, and other personal property. OA prepared the list on the basis of the recollections of five EOP officials with responsibilities in the areas of administration, management, telephones, facilities, and supplies. It listed missing building fixtures, such as doorknobs and a presidential seal; computer keyboards with missing "W" keys; damaged and overturned furniture; telephone lines pulled from the wall; telephones with missing telephone number labels; fax machines moved to the wrong areas and a secure telephone left open with the key in it; offices left in a state of "general trashing," including the contents of desk drawers dumped on the floor, a glass desk top smashed and on the floor, and refrigerators unplugged with spoiled food; writing on the walls; and voice mail greetings that had obscene messages. The list also indicated that six to eight 14-foot trucks were needed to recover usable supplies that had been thrown away.

The EOP consists of a number of units, including the White House Office, the Office of the Vice President, the National Security Council (NSC), and OA.[2] The White House Office is composed of staff who directly support and advance the president's goals and are commonly referred to as "White House staff." Offices of the White House Office include, but are not limited to, advance, cabinet affairs, communications, counsel, the first lady, legislative affairs, management and administration, political affairs, presidential personnel, press secretary, public liaison, and scheduling. Although White House Office staff generally leave their positions at the end of an administration, many EOP staff at agencies such as the NSC and OA hold their positions during consecutive administrations. In this report, we referred to staff who are working or worked in the White House complex during the current administration as "EOP staff" and staff who worked in

[2]Other EOP units include the Council of Economic Advisers, Council on Environmental Quality, Office of Homeland Security, Office of Management and Budget, Office of National Drug Control Policy (ONDCP), Office of Science and Technology Policy, and the Office of the United States Trade Representative.

the previous administration and no longer worked in the White House complex after January 20, 2001, as "former Clinton administration staff."

The White House complex consists of several buildings, including the White House, the adjacent EEOB, and the New Executive Office Building (NEOB). This report focuses on observations that were made in the West Wing of the White House and the EEOB during the transition, and not the White House residence or the NEOB. Excluding military staff, most White House Office staff work in the East and West Wings of the White House or the EEOB. GSA maintains the White House office space, including cleaning the offices and repairing the physical structure. OA asks GSA to repair furniture in the White House complex. Some EOP agencies, such as the Office of the Vice President, also handle some of their own administrative functions. The Secret Service, a unit of the Department of the Treasury, is responsible for the security of the White House complex and its occupants.

Scope and Methodology

To obtain information regarding observations of damage, vandalism, and pranks, we interviewed the five EOP officials who contributed to the June 2001 list (the OA director, the OA associate director for facilities management, the OA associate director for general services, the management office director, and the telephone service director); the OA associate director for information systems and technology; an on-site manager for a contractor providing telecommunications services in the White House complex; the Secret Service deputy special agent in charge, presidential protection division, White House security branch; the director of GSA's White House service center; the chief usher for the executive residence; and four GSA cleaning crew leaders who worked in the White House complex during the transition.

We also sent letters to 518 EOP staff who worked in the West Wing and EEOB during the first 3 weeks of the Bush administration, asking those who observed any damage, vandalism, or pranks during the weeks surrounding the 2001 transition to arrange a meeting with us through the Office of White House Counsel.[3] We believed that staff who were in the complex during the first 3 weeks of the administration were the most likely staff to have observed damage, vandalism, or pranks. The Office of White House Counsel arranged for interviews with a total of 78 EOP staff, and an associate counsel to the president was present during our interviews with EOP staff. Of the 78 staff, 23 worked for the EOP before January 20, 2001,[4] and 55 began working for the EOP on or after January 20. The interviews with EOP staff were conducted between June 2001 and May 2002. Because these interviews were conducted between 5 and 16 months after the transition, we recognize that recollections could have been imprecise. It was not possible to determine whether, in all cases, the reported incidents had occurred, when they occurred, why they occurred, and who may have been responsible for them. More detailed information about our methodology in reporting the observations is contained in appendix I.

To determine if any documentation existed that may not have been previously located, we asked the EOP, GSA, and the Secret Service to provide any documentation they had regarding damage or theft reports, requests for repairs, and invoices for items that had to be purchased. In a June 6, 2001, letter to an associate counsel to the president, we said that "we will need access to any records and documents maintained by the White House, GSA, the Secret Service, or other organizations at the White House that relate to the alleged damage as well as to federal employees and contractors working at the White House who might have information bearing on the allegations."

We also interviewed a total of 29 GSA staff who prepared the office space for the new administration. In addition, we interviewed two National Archives and Records Administration (NARA) staff who worked in the

[3]We did not send letters to occupants of other EOP office space, such as the East Wing, because our initial interviews of EOP and GSA staff did not indicate that any damage, vandalism, or pranks were observed there. We also did not send letters to eight EOP staff whom we had already interviewed before July 31, 2001, when we prepared the letters.

[4]Most of the EOP staff we interviewed who worked for the EOP before January 20, 2001, were OA staff. We did not interview any EOP staff who worked for certain EOP units, such as the United States Trade Representative, ONDCP, or the Office of Homeland Security.

White House complex to assemble presidential materials during the last days of the Clinton administration about their observations; a contract employee who helped discard keyboards from the EOP after the transition; and an official from the White House Communications Agency (WHCA), which handles communications equipment for the White House.

After interviewing EOP and GSA staff about their observations, we interviewed a total of 72 former Clinton administration staff to obtain their comments on the allegations during the 2001 transition and to obtain their observations about the 1993 transition. We interviewed 35 former Clinton administration staff who were identified by the senior advisor for presidential transition during the Clinton administration as having worked in the White House complex during the 1993 or 2001 transitions. We also contacted an additional 37 former Clinton administration staff because they were former directors, managers, or representatives from the primary offices where observations were made. We did not, however, obtain comments from former Clinton administration staff regarding every observation. Of the 72 former Clinton administration staff we interviewed, 67 worked in the White House complex during the 2001 transition and 19 worked there during the 1993 transition. Five of the 72 former Clinton administration staff we interviewed left before the end of the administration, but had worked in the White House complex during the 1993 transition.

We obtained repair or replacement costs for some of the observed incidents. However, as explained in more detail later in this report, we did not request cost information associated with all of the observations because we did not believe certain costs would be material or readily available. We also believed that the effort that would have been needed to obtain and verify cost data for all observed incidents would not have been commensurate with the benefit of having reported the information. Further, although certain repair and replacement costs were provided, it was unclear what portion of these costs was incurred or will be incurred due to vandalism.

To determine how the 2001 presidential transition compared with others in terms of damage, we asked 14 EOP and 2 GSA staff who worked in the White House complex during previous transitions about their recollections of damage, vandalism, or pranks during previous transitions. In addition, we reviewed news media reports to identify any reported damage, vandalism, or pranks during previous transitions. We searched for news reports concerning the 1981, 1989, and 1993 transitions.

We assessed what steps could be taken to help prevent and document any damage during future presidential transitions by discussing the issue with GSA and EOP officials and by obtaining the check-out procedures for departing Clinton administration staff. We also discussed check-out procedures with personnel responsible for the office space and equipment at the U.S. Capitol, including staff from the Office of the Chief Administrative Officer, House of Representatives; Office of Customer Relations, Office of the Senate Sergeant-at-Arms; and Office of the Building Superintendent, Office of the Architect of the Capitol. We contacted them because the change of staff and offices on Capitol Hill after elections appeared somewhat comparable to the turnover of EOP staff at the end of an administration. We did our work from June 2001 to May 2002 in Washington, D.C., in accordance with generally accepted government auditing standards.

Results

Damage, theft, vandalism, and pranks did occur in the White House complex during the 2001 presidential transition. Multiple people said that, at the beginning of the Bush administration, they observed (1) many offices that were messy, disheveled, or contained excessive trash or personal items; (2) numerous prank signs, printed materials, stickers, and written messages that were left behind, some of which contained derogatory and offensive statements about the president; (3) government property that was damaged, including computer keyboards with missing or damaged "W" keys and broken furniture; and (4) items that were missing, such as office signs, a presidential seal, cellular telephones, doorknobs, and telephone number labels. In addition, documentation provided indicated that some broken, missing, or possibly stolen items were repaired or replaced at the beginning of the Bush administration. Several EOP staff said they believed that what they observed during the transition, such as broken furniture and excessive trash left behind, was done intentionally.

Some former Clinton administration staff acknowledged that they had observed a few keyboards with missing "W" keys and some prank signs at the end of the administration. However, the former Clinton administration staff we interviewed also said that (1) the amount of trash that was observed during the transition was what could be expected when staff move out of their offices after 8 years; (2) they did not take the items that were discovered missing; (3) some furniture was broken, but not intentionally, before the transition and little money was spent on repairs and upkeep during the administration; and (4) many of the reported observations were not of vandalism. Further, two former Clinton

administration representatives told us that, in their opinion, most of the observations were not true.

Incidents such as the removal of keys from computer keyboards; the theft of various items; the leaving of certain voice mail messages, signs, and written messages; and the placing of glue on desk drawers, clearly were done intentionally. Any intentional damage at the White House complex, which is a national treasure, is both inappropriate and a serious matter. The theft of or willful damage to government property would constitute a criminal act in violation of federal law. Although it is clear that some of the reported incidents were intentional, such as the removal and damaging of keys on computer keyboards, it was unclear whether, in all cases, the reported incidents occurred, when they occurred, how many occurred, and who was responsible for them. In addition, regarding the items reported missing, it was not known whether all of them were thefts, and if they were, who was responsible for them.

Some documentation corroborating a number of the observations existed. EOP facilities, computer, and telephone officials said that much repair and replacement work was done during the transition without documentation being prepared because of the need to complete the work quickly. The OA associate director for facilities management, for example, said that no documentation was prepared regarding three to four missing office signs, a doorknob, and two or three medallions (small metal presidential seals affixed to office signs) that were replaced during that time. Further, documentation was provided indicating that much telephone service work was done during the transition, but this information did not directly corroborate allegations of vandalism and pranks involving the telephones.

Observations of EOP Staff and Related Documentation

Seventy-eight EOP staff who worked in the White House complex during the 2001 transition provided observations about the condition of the complex shortly before or at the beginning of the administration. In addition, 10 of the 29 GSA staff we interviewed told us about observations that related to the items contained in the June 2001 list. The observations generally reflected the types of incidents included in the June 2001 list and also included additional items that were not on it. In certain categories, the observations of EOP staff differed from the June 2001 list in terms of the total numbers of incidents or the alleged extent of the damage. More observations of damage, vandalism, and pranks were made on the first floor of the EEOB in the offices of advance and scheduling, the counsel's

offices, and the offices of the first lady; and on the second floor of the EEOB in the offices of the vice president, than in other offices.[5]

Summarized below are observations made in specific locations[6] in the main categories, related comments from former Clinton administration staff and GSA staff, and any documentation relating to the observations. Appendix I contains additional information about the observations and additional comments from former Clinton administration staff.

- Twenty-nine EOP staff said they observed about two dozen prank signs, printed materials, stickers, or written messages that were affixed to walls or desks; placed in copiers, desks, and cabinets; or placed on the floor. They said some of these were derogatory and offensive in nature about the president, and sometimes there were multiple copies in certain locations. Six EOP staff also said that they had observed writing on the walls (words) in a total of two rooms. Thirteen former Clinton administration staff said that they saw a total of 10 to 27 prank signs in the EEOB during the transition, but one former employee also said that the prank signs that she saw were harmless jokes.

 - In June and November 2001, EOP staff provided copies of 2 prank signs that they said were found during the transition, which were derogatory jokes about the president and vice president. In August and September 2001, we were also shown a roll of political stickers that were left behind and 2 stickers affixed to a file cabinet and desk containing derogatory statements about the president.

- Twenty-six EOP staff said that they observed a total of 30 to 64 computer keyboards with missing or damaged "W" keys. Two former Clinton administration staff said that they saw a total of 3 or 4 keyboards with missing "W" keys.

 - Purchase records indicated that the EOP bought 62 computer keyboards on January 23 and 24, 2001. The January 23 purchase request for 31 keyboards indicated that the keyboards were "needed

[5]The vice president has an office in the West Wing and a ceremonial office in the EEOB. Most of the vice president's staff work in the EEOB.

[6]Appendix I contains information regarding additional observations that staff identified by floor or building, or about which staff did not provide information about where they made their observations.

to support the transition," and the January 24 purchase request for another 31 keyboards indicated that it was a "second request for the letter 'W' problem." The purchase requests were approved by an OA financial manager who, in April 2001, sent an E-mail to an OA branch chief indicating that the 62 keyboards purchased in January 2001 were approximately the number that were defective because "W" keys were missing or inoperable during the transition. (The actual number of keyboards that were damaged during the transition is uncertain because of different statements provided by EOP staff regarding the number of damaged keyboards that had to be replaced.)

- A March 27, 2001, OA excess property report indicated that 12 boxes of keyboards, speakers, cords, and soundcards were discarded, but did not specify the number of keyboards that were included. (More information about the excess property report is contained in appendix I.)

- Twenty-two EOP staff and one GSA employee told us that they observed offices that were messy, disheveled, dirty, or contained excessive trash or personal items left behind. Some of those staff also said they believed that offices were intentionally "trashed." Former Clinton administration staff said the amount of trash that was observed during the transition was what could be expected when staff moved out of their offices after 8 years.

 - The EOP provided seven photographs that, according to an associate counsel to the president, were taken of two or three offices in the EEOB by an EOP employee on January 21, 2001, and that showed piles of binders and office supplies, empty beverage containers, and other items. However, a Clinton administration transition official said that the pictures showed trash and not vandalism.

 - A January 30, 2001, GSA facility request form documented a request to clean carpet, furniture, and drapes and to patch and paint walls and moldings in an office that an EOP employee said was "trashed out," including the carpet, furniture, and walls, and had three to four "sizable" holes in a wall. The facility request was made by the EOP employee who told us about this observation.

 - Another January 30, 2001, GSA facility request form documented a request to clean carpet, furniture, and drapes in a different office that

an EOP employee said was filthy and contained worn and dirty furniture.

- January 25, 2001, and February 17, 2001, GSA facility request forms documented requests to clean carpet, furniture, and drapes in a suite of offices that an EOP employee told us was "extremely trashed" and smelled bad. The facility requests were made by the EOP employee who told us about this observation.

- Ten EOP staff said that they observed a total of 16 to 21 pieces of broken furniture. Former Clinton administration staff said that some furniture was broken before the transition and could have been the result of normal wear and tear, and little money was spent on repairs and upkeep during the administration.

 - January 25 and 29, 2001, GSA facility request forms documented requests to gain access to and for a key to a locked file cabinet in a room where an EOP employee said that he had found a key that was bent and almost entirely broken off in a cabinet that, once opened by a locksmith, contained Gore-Lieberman stickers. The requests were made by the EOP employee who told us about this observation.

 - A January 30, 2001, GSA facility request form documented a request to fix a broken desk lock in an office where an EOP employee told us that a lock on her desk appeared to have been smashed. The facility request was made by the EOP employee who told us about this observation.

 - A February 12, 2001, GSA facility request form documented a request to repair a leg on a sofa in an office on a floor of the EEOB where an EOP employee observed a sofa with broken legs.

 - A February 21, 2001, GSA facility request form documented a request to repair arms on two chairs in an office where two EOP staff told us that they had observed broken chairs. The facility request was made for the EOP employee who told us about this observation. However, the manager of the office during the Clinton administration where EOP staff said they observed broken chairs said that arms on two chairs in that suite of offices had become detached a year or two before the transition and that carpenters had glued them back, but that they did not hold. Two GSA facility request forms in 1999

documented requests made by the former office manager for previous repairs of chairs in that office suite.

- Five EOP staff told us they observed a total of 11 to 13 pieces of furniture that were on their sides or overturned. Six EOP staff said they observed a total of four to five desks with a sticky substance or glue on the top or on drawers.

- Six EOP staff said that they observed a total of 5 to 11 missing office signs, which include medallions (presidential seals about 2 inches in diameter), and one of those six EOP staff also said he observed that six medallions were missing from office signs; four EOP staff said that they observed a total of 10 to 11 missing doorknobs, which may have been historic originals; an EOP official, a GSA official, and a Secret Service official said that a presidential seal 12 inches in diameter was stolen; two EOP staff said they observed a total of 9 to 11 missing television remote controls; and two EOP staff said that two cameras were missing. In addition, two EOP officials said that about 20 cellular telephones could not be located in the office suite where they belonged. The former occupants of offices during the Clinton administration whom we interviewed where items were observed missing said that they did not take them.

 - An April 19, 2001, GSA facility request form documented a request for "replacement of frames & medallions" for four rooms, including an office where three EOP staff observed a missing office sign and medallion. The three other rooms that, according to the facility request form, needed office signs were located on one of two floors of the EEOB where an EOP employee observed four missing office signs.

 - A February 7, 2001, GSA facility request form documented a request to "put doorknob on inter-office…door" in an office where an EOP employee told us that he had observed two pairs of missing doorknobs. The facility request was made for the EOP employee who told us about this observation. However, a GSA planner/estimator said that the work done in response to that request was not to replace a missing doorknob, but to perform maintenance on a doorknob with a worn-out part.

 - A Secret Service report documented the theft of a presidential seal that was 12 inches in diameter from the EEOB on January 19, 2001.

- Purchase records indicated that the EOP bought a total of 15 television remote controls on March 6 and 15; June 5; and July 10, 2001. The EOP indicated that these purchases were made to replace remote controls that were missing from offices during the transition.

- Purchase records indicated that the EOP bought two cameras on March 16, 2001, and April 4, 2001. The EOP indicated that these purchases were made to replace cameras that two EOP staff said were discovered missing. However, the director of the office during the Clinton administration where the cameras belonged said that the cameras were still in the office when the staff left on their last day of employment with the EOP.

- Purchase records indicated that the EOP bought 26 cellular telephones on January 26, 2001. The EOP indicated that these purchases were made to replace cellular telephones that could not be located. However, former Clinton administration staff who worked in the office where the cellular telephones belonged said that they left them there at the end of the administration. In addition, a former official from that office during the Clinton administration provided copies of check-out forms documenting that the staff had returned their cellular telephones at the end of the administration.

- Five EOP staff said that they observed a total of 98 to 107 telephones that had no labels identifying the telephone numbers, and seven EOP staff said they saw telephones unplugged or piled up. Former Clinton administration staff said that some telephones did not have labels identifying the numbers during the administration, mainly because certain telephones were used for outgoing calls only.

 - The EOP provided documentation summarizing telephone service orders closed from January 20, 2001, through February 20, 2001, containing 29 service orders that cited the need for or placing of labels on telephones; 6 of the 29 service orders were for work in offices where telephone labels were observed missing. EOP also provided two blanket work orders and four individual work orders that cited relabeling or placing labels on telephones for which the summary document did not mention labels. However, all of the 29 service orders on the summary document and the blanket and individual work orders EOP provided were part of other requests for service and the extent to which the work was done solely to replace missing labels was not clear.

- A January 29, 2001, telecommunications service request documented a request for services including "replace labels on all phones that [sic] removed."[7]

- A February 7, 2001, telecommunications service request documented a request to remove a telephone from an office where piles of telephones were observed.

- Thirteen EOP staff said they heard a total of 22 to 28 inappropriate or prank voice mail greetings or messages, and two EOP staff said they heard a total of 6 to 7 obscene or vulgar voice mail messages that were left on telephones in vacated offices. One former Clinton administration employee said that he left what he considered to be a humorous voice mail greeting on his telephone on his last day of employment.

- Two EOP staff said that they saw a total of 5 to 6 telephone lines "ripped" (not simply disconnected) or pulled from walls, and another EOP employee said that at least 25 cords were pulled from walls in two rooms. Former Clinton administration staff we interviewed who occupied those offices said they did not pull the cords from the walls.

 - A January 24, 2001, GSA facility request form documented a request to "organize all loose wires and make them not so visible" in an office suite where an EOP employee said that at least 25 cords were pulled from the walls. The facility request was made by the EOP employee who told us about this observation. The former occupant of the main room in that office suite said that he did not observe any computer or telephone cords that were cut or torn out of walls, and that his office only had 5 telephone and computer cords.

Observations of damage, vandalism, or pranks were reported by EOP staff in about 100 of about 1,074 rooms in the EEOB and in 8 of about 137 rooms[8] in the East and West Wings of the White House. According to the OA

[7]In commenting on a draft of this report, the counsel to the president cited other documentation that the White House believed was indicative of having to replace missing telephone labels. However, we were not provided with all of the documentation cited, and we did not believe that the documentation that we were provided, other than the one cited above, was definitive in that regard.

[8]The total number of rooms in the East and West Wings included reception areas, restrooms, and nonoffice space.

associate director for facilities management, approximately 395 offices were vacated during the transition: 304 in the EEOB, 54 in the West Wing, and 37 in the East Wing. In the overwhelming majority of cases, one person said that he or she observed a specific incident in a particular location. However, more than one person observed most types of incidents. In addition, we were generally unable to determine when the observed incidents occurred and who was responsible for them because no one said he or she saw people carrying out what was observed or said that he or she was responsible for what was observed, with three exceptions: (1) an EOP employee who said she saw a volunteer remove an office sign from a wall, (2) a former Clinton administration employee who said he wrote a "goodwill" message inside the drawer of his former desk, and (3) another former Clinton administration employee who said that he left what he believed to be a humorous voice mail message greeting at the end of the administration.[9] Further, we were told that many contractor staff, such as movers and cleaners, were working in the White House complex during the weekend of January 20 and 21, 2001, but the White House did not provide the data we had requested regarding visitors to the EEOB during that time.[10]

From our interviews of EOP staff, we totaled the number of incidents that were observed in the categories indicated in the June 2001 list of damage. In certain categories, the observations of EOP staff differed from the list in terms of the total numbers of incidents or alleged extent of the damage. For example, regarding the statement contained in the June 2001 list that 100 keyboards had to replaced because the "W" keys were removed, EOP staff provided different estimates of the number of keyboards that had to be replaced because of missing or damaged keys, ranging from about 33 keyboards to 150 keyboards. As a result, we could not determine how many keyboards were actually replaced because of missing or damaged "W" keys. Regarding the statement contained in the list that furniture in six offices was damaged severely enough to require a complete refurbishment or destruction, we were told that 16 to 21 pieces of broken furniture were observed during the transition. This included 5 to 7 chairs with broken legs or backs, but we did not obtain any documentation indicating that they were either completely refurbished or destroyed. The EOP provided

[9]See appendix I for more information about these incidents.

[10]GSA indicated that the staff who cleaned the EEOB during the weekend of January 20 to 21, 2001, included 55 GSA custodial workers, 67 contract workers, and additional contract crews for carpet cleaning and furniture moving.

photographs of 4 pieces of furniture that, according to an associate counsel to the president, were moved to an EOP remote storage facility that is now quarantined. They included a chair with a missing leg, a chair with a missing back, a sofa without a seat cushion, and a desk with missing drawer fronts. However, no information was provided identifying the offices from which these pieces of furniture were taken, when the damage occurred, or whether any of the damage was done intentionally. Further, EOP staff told us about fewer incidences of writing on walls than were indicated in the list. Regarding the statement in the list that eight trucks were needed to recover new and usable supplies that had been thrown away, the EOP official responsible for office supplies said that about eight truckloads of excessed items were brought to an EOP warehouse where they were sorted into usable and nonusable materials, but he was not aware of any usable supplies being discarded.

Costs Associated with the Observations

Cost data were not readily available regarding all of the observations. Further, although certain repair and replacement costs were provided, it was unclear what portion of these costs was incurred or will be incurred due to vandalism. The EOP and GSA provided documentation indicating that at least $9,324 was spent to repair and replace items that were observed broken or missing in specific locations and for cleaning services in offices where observations were made. The following list itemizes those costs:

- $4,850 to purchase 62 keyboards;[11]
- $2,040 to purchase 26 cellular telephones;
- $1,150 for professional cleaning services;
- $729 to purchase 2 cameras;

[11]Although the EOP provided documents regarding the purchase of 62 computer keyboards in late January 2001, EOP staff with responsibilities involving computers provided different estimates of the number of keyboards that had to be replaced at the beginning of the new administration because they were intentionally damaged, ranging from 33 to 150. Using the $75 per-unit price that the EOP paid in January 2001 for keyboards, 33 keyboards would cost $2,475, and 150 keyboards would cost $11,250. The $4,850 that the EOP paid for keyboards in January 2001 included $200 in expedite fees, which we excluded in calculating the per-unit price.

- $221 to purchase 15 television remote controls;
- $108 for locksmith services regarding furniture;
- $76 to remove a telephone from an office;
- $75 to repair 2 chairs with broken arms; and
- $75 to repair a sofa leg.

EOP and GSA officials also provided estimates of $3,750 to $4,675 in costs that could have been incurred or may be spent in the future to replace missing items for which no documentation, such as facility request forms or purchase records, was available. Because specific locations were not provided regarding some of the observations of missing items, we were unable to determine whether all of the missing items had been replaced. The costs estimated by EOP or GSA staff for replacing the government property that was observed missing included:

- $2,100 to $2,200 for 9 to 10 doorknobs;[12]
- $675 to $750 for 9 to 10 medallions;
- $625 to $1,375 for 5 to 11 office signs; and
- $350 for a presidential seal that was 12 inches in diameter.

Based on what the White House said were extremely conservative estimates and straightforward documentation, the White House said that the government incurred costs of at least $6,020 to replace missing telephone labels and reroute forwarded telephones. The documentation provided included two blanket work orders and associated bills, a closed orders log for the period January 20 through February 20, 2001, 8 individual work orders for telephone service, and two monthly AT&T invoices. The

[12]This total estimated cost assumes that all of the doorknobs that were observed missing, except for one, were replaced with historic replicas, which was unknown. We deducted the value of replacing one historic doorknob from the total number observed missing because as noted earlier, a GSA planner/estimator said that a facility request to install a doorknob in an office where one was observed missing during the transition was to perform maintenance on a doorknob with a worn-out part, not to replace a missing one. It was also unknown whether all of the doorknobs that were observed missing were historic originals.

White House also identified, but did not provide, other individual telephone service work orders that cited the need for or placing labels on telephones. Six of the 29 work orders listed on the closed orders log that cited needing or placing labels and four individual work orders that included labels were for work in offices where telephone labels were observed missing. However, both the orders listed on the closed orders log and the individual work orders, as well as the blanket work orders, cited other services besides labeling, and it was not clear to us from the documentation provided the extent to which relabeling was done solely to replace missing labels or would have been necessary anyway due to changes requested by new office occupants. None of the documents provided specifically cited correcting forwarded telephones. Thus, while we do not question that costs were incurred to replace labels or reroute forwarded telephones, we do not believe the documentation provided is clear enough to indicate what those costs were.

Appendix I contains information regarding additional costs to repair furniture that was not in locations where EOP staff told us they observed pieces of damaged or broken furniture during the transition. We did not request cost information associated with some observations, such as the time associated with removing prank signs, placing overturned furniture upright, or investigating missing items because we did not believe these costs would be material or readily available or that the information would be beneficial relative to the effort that would have been required to obtain the data. These costs also did not include any EOP or GSA costs associated with our review or responding to other inquiries related to the alleged damage.

Previous Presidential Transitions

According to a limited number of EOP, GSA, and former Clinton administration staff we interviewed who worked in the White House complex during previous transitions, as well as a press account that we reviewed, some of the same types of observations that were made concerning the condition of the White House complex during the 2001 transition were also made during the 1993 transition. These observations included missing office signs and doorknobs, messages written inside desks, prank signs and messages, piles of furniture and equipment, and excessive trash left in offices. We also observed writing in a desk in the EEOB that was dated 1993. In addition, words and initials were reported observed carved into desks during the 1993 transition, which were not reported observed during the 2001 transition. On the other hand, no one said they observed keyboards with missing and damaged keys during

previous transitions, as numerous people said they observed in the White House complex during the 2001 transition.

Seven EOP staff and one former Clinton administration employee who had worked in the White House complex during previous transitions made comparisons regarding the condition of the space during the 2001 transition with conditions during previous transitions. Six EOP staff said that the condition was worse in 2001 than previous transitions, while one EOP employee and one former Clinton administration employee said the office space was worse in 1993 than 2001. Because of the lack of definitive data available to compare the extent of damage, vandalism, and pranks during the 2001 transition with past transitions, we were unable to conclude whether the 2001 transition was worse than previous ones. Appendix II contains observations and a press account regarding the condition of the White House office space during previous transitions.

Avoiding Problems in Future Transitions

Former Clinton administration officials told us that departing EOP staff were required to follow a check-out procedure that involved turning in such items as building passes, library materials, and government cellular telephones at the end of the administration. The procedure did not include an inspection of office space or equipment to assess whether any damage had occurred. A January 4, 2001, memorandum from President Clinton's chief of staff encouraged staff to check out by January 12, 2001, but did not indicate in what condition the office space should be left or provide any warning about penalties for vandalism. When members of Congress and their staff vacate offices on Capitol Hill, their office space and equipment are inspected, and members are held accountable for any damages.

Because it is likely that allegations of damage, vandalism, and pranks in the White House complex could be made during future transitions and because of the historic nature of the White House complex and the attention it receives, we are recommending actions to help deter future problems during presidential transitions, including a check-out process for departing EOP staff that includes clear instructions; and an office inspection documenting the condition of office space, furniture, and equipment.

In addition, EOP, GSA, and former Clinton administration staff identified a number of issues related to office cleaning during our interviews, such as whether (1) a sufficient number of people were available to do the cleaning as quickly as necessary, (2) cleaning had begun soon enough, (3) sufficient coordination existed between the EOP and GSA, and (4) a sufficient

number of containers were available for departing staff to deposit their trash. Accordingly, we are recommending that the EOP and GSA work together to explore what steps should be taken to expedite the cleaning of White House office space during presidential transitions. Appendix III discusses steps to help prevent damage to government property during future presidential transitions.

Conclusions

Damage, theft, vandalism, and pranks occurred in the White House complex during the 2001 presidential transition. Incidents such as the removal of keys from computer keyboards; the theft of various items; the leaving of certain voice mail messages, signs, and written messages; and the placing of glue on desk drawers clearly were intentional acts. However, it was unknown whether other observations, such as broken furniture, were the result of intentional acts, when and how they occurred, or who may have been responsible for them. Further, with regard to stolen items, such as the presidential seal, because no one witnessed the thefts and many people were in the White House complex during the transition, it was not known who was responsible for taking them. Moreover, regarding other items reported missing, such as doorknobs, cellular telephones, and television remote controls, it was unknown whether all of them were thefts, and if they were, who was responsible for taking those items and when they were taken. Further complicating our attempt to determine the amount of damage that may have occurred was the lack of documentation directly corroborating some observations and our inability to reconcile certain observations only a few hours apart in locations where some people saw damage, vandalism, or pranks and where others saw none.

We realize the difficulty of preparing the White House office space for occupancy by the new administration in the short amount of time that is available during presidential transitions. We also recognize that some prank-type activity has occurred in the White House complex during past transitions and could occur in the future. Because of the historic nature and symbolism of the White House and the public attention it receives, as well as the costs associated with investigating allegations of damage, we believe that current and future administrations should have a cost-effective inspection of office space, furniture, and equipment as part of the check-out process for departing employees during transitions and document any damage observed. We also believe that departing EOP staff should be given clear instructions regarding what condition their office space and equipment should be left in and how to handle office supplies, and they should be informed about the penalties for damage and vandalism.

Many EOP staff reported observing what they believed to be an excessive amount of trash in the office space during the transition. Because future presidential transitions may not fall on a weekend, as the 2001 transition did, even less time will be available to clean the space. The EOP and GSA should explore what additional steps could be taken to ensure that the EOP office space is immediately cleaned and prepared for an incoming administration, including communicating with both outgoing and incoming administrations concerning the timetable and procedures for the transition.

Recommendations for Executive Action

Steps should be taken to help (1) prevent and document damage that results in repair or replacement costs during presidential transitions; (2) ensure that the space is ready for occupancy; and (3) avoid potential future costs associated with investigating allegations of damage, vandalism, and pranks. We recommend that the director of the Office of Management and Administration for the White House Office and the GSA administrator work together to

- revise the employee check-out process to require a cost-effective inspection of office space, furniture, and equipment by the EOP and GSA within their respective areas of responsibility and to document any damage observed; and

- explore what additional steps could be taken to ensure that the EOP office space is immediately cleaned and prepared for an incoming administration, including communicating with both outgoing and incoming administrations concerning the timetable and procedures for transition.

We also recommend that the officials provide clear instructions to staff about what condition the office space and equipment should be left in, how office supplies should be handled, and the penalties for damaging and vandalizing government property.

Agency Comments and Our Evaluation

In March and April 2002, we held exit conferences with White House officials and former Clinton administration representatives during which we provided them an opportunity to review our preliminary findings. The White House provided written comments on the preliminary findings, and former Clinton administration representatives provided oral comments. We considered those comments in preparing our draft report.

On May 3, 2002, we provided copies of a formal draft of this report for comment to the counsel to the president and the GSA administrator. On May 31, 2002, the counsel to the president provided written comments on the draft, which are reprinted in appendix IV. Our response to the White House's general statements is provided below, and our response to the White House's specific comments is contained in appendix V. The deputy commissioner of GSA's Public Buildings Service also provided comments on May 13, which are summarized below and reprinted in appendix VI.

We had intended to provide representatives from the Clinton administration with a draft of this report for their review and comment. However, we did not do so because one or more representatives prematurely provided information to the press on the basis of their discussions with us during our review, and we believed that another premature release of the contents of the draft report was likely. Nonetheless, on the basis of the discussions we did have with Clinton administration representatives during the course of our review, we believe that our report fairly reflects the information they provided to us.

White House Comments

The White House's general comments on the draft and our response follow.

Report Comment Process

The White House said that, in our May 3 draft of the report, we had failed to address many of the concerns it had raised in its April 26 set of comments on our preliminary findings. Accordingly, the White House said, it had provided us with a second set of detailed comments on the May 3 draft. The White House also said that it was disappointed that it would not have an opportunity to consider or reply to our response to its comments prior to publication of the final report. It said that this was inconsistent with all previous representations regarding our process.

We carefully considered the comments that the White House provided regarding our preliminary findings and made changes in our report where we believed appropriate. On May 13, the White House provided written comments on our May 3 draft report that included the names of people we interviewed during our review. The White House subsequently decided to delete these individuals' names from its comments, and on May 31, provided us with a second set of comments on our May 3 draft report that did not contain those names. Moreover, we did not provide the White

House with an opportunity to reply to our response to its comments because that is not part of our normal comment process; we do not normally provide agencies with our response to their comments prior to publication of the report. The White House is incorrect in indicating that, by not providing the White House with an opportunity to consider or reply to our response to its comments prior to the publication of the report, we were being inconsistent with all previous representations regarding our process. We explained the process on numerous occasions and provided a copy of our congressional protocols to an associate counsel to the president, and we never indicated that the White House would have an opportunity to consider or reply to our response to its comments before the report was published.

Amount of Detail Provided

The White House said that we had not reported many facts that readers needed to know to have a complete and accurate understanding of what happened during the 2001 transition. The White House said that it believed the report did not provide sufficient detail to respond to Representative Barr's request or to meet *Government Auditing Standards*, and noted that we did not specifically identify each reported instance of vandalism, damage, or a prank. Further, the White House said that, in many cases, we reported a former staff member's comments without having discussed the observation itself. The White House noted that reporting when, where, and by whom an observation was made would be helpful in determining the likely perpetrator.

The White House also noted that we had not reported the specific content of graffiti, messages, and signs. According to the White House, this written content would provide (1) indications of who wrote the messages and when; (2) an insight into the mind-set or intention of the person who wrote the message; (3) an opportunity to infer that, if departing staff left a vulgar or derogatory message, those same individuals may be responsible for other incidents that were observed near the location of the message; (4) an opportunity to compare the 2001 transition to prior ones; and (5) an opportunity to decide whether we had fairly and objectively characterized the content of the messages.

In transmitting a revised set of comments on May 31, the counsel to the president stated his objection to our decision to redact from the White House's comments, which are reprinted in appendix IV, a word that we considered to be inappropriate that was contained in a prank sign that was found during the transition. He also said that with respect to our

description of a particular message that said "jail to the thief" as "arguably" derogatory to the president, because we did not reveal the content of the message, readers have no way of knowing whether our characterization of it being "arguably" derogatory is accurate.

We disagree with the White House that we had not reported many facts that readers needed to know to have a complete and accurate understanding of what happened during the 2001 transition. Our report includes the information (1) we agreed to provide to Representative Barr, (2) to support our conclusions and recommendations, and (3) to comply with *Government Auditing Standards*. As provided for under our congressional protocols when we receive congressional requests, we work with the requesters to agree on a scope of work and an approach that takes into consideration a number of factors. They include the nature of the issues raised; the likelihood of being able to address them in a fair, objective, and complete manner; a consideration of professional standards, rules of evidence, and the nature and sufficiency of evidence likely to be available on the particular engagement; known or possible constraints related to obtaining the information needed; and the time and resources needed and available to accomplish the work. For this review, after independently taking these factors into consideration, we used a thorough, reasonable approach to provide as complete and objective a picture as possible of the damage that may have occurred during the 2001 presidential transition, given that (1) we could not physically observe evidence of most of the incidents that were reportedly observed, (2) limited definitive documentation was available regarding these events, and (3) views of interested parties would likely differ on many issues and would be difficult or impossible to reconcile. Accordingly, we agreed to respond to Representative Barr's request by reporting on the documentation provided by the White House; summarizing the observations made by occupants and preparers of White House office space during the 2001 transition; and obtaining explanations and other comments of former Clinton administration staff related to any damage, vandalism, or pranks. We neither agreed to nor performed an investigation into who may have been responsible for any damage, vandalism, or pranks identified, nor did we agree to report each individual observation.

We reported all observations in a summary fashion (i.e., total number of observations in a particular category) and discussed some observations in detail when warranted. For example, in the section of appendix I regarding furniture, we not only provided the total number of pieces of broken furniture that people observed, but also described the specific problems

they observed. However, regarding other categories of observations, such as missing telephone labels, we did not provide details regarding each observation because such information would not have been meaningful; rather, we reported a range of the total number of telephone labels observed missing. Reporting each instance was not only unneeded, but would have been redundant. Further, we separately mentioned each observation that was made in the White House itself. Although we would agree with the White House that the details about when, where, and by whom observations were made may be relevant in assessing the credibility of statements and determining the likely perpetrators, we do not believe that reporting additional detail would have allowed readers to make sound, independent conclusions.

Although, as the White House correctly states, *Government Auditing Standards* require audit reports to contain all the information needed to satisfy audit objectives and promote a correct understanding of the matters to be reported, these standards also recognize that considerable judgment must be exercised in determining an appropriate amount and level of detail to include. Excessive detail can detract from a report, conceal the real message, and confuse or discourage readers. Consistent with these professional standards, we believe that we have provided the appropriate amount of detail needed to satisfy our objectives and support our conclusions and recommendations. In our view, reporting more detail could, at a minimum, confuse readers and contribute to unproductive speculation, rather than lead to sound conclusions.

As we have reported, we believe that sufficient, competent, and relevant evidence exists to support our conclusion that damage, vandalism, and pranks did occur during the 2001 presidential transition, and we have presented this evidence in our report. However, we believe it is also important to recognize that corroborating evidence was not provided for all observations, and that definitive evidence regarding who was responsible for the incidents observed generally was not provided. In addition, although a number of incidents appeared intentional by their nature, it often was unknown whether other types of incidents were intentional, malicious acts. Accordingly, we do not believe it was appropriate to include all of the details that the White House suggested because we did not want to mislead readers into concluding that corroboration existed and that all of the reported incidents occurred and were intentional, nor did we believe it was appropriate to contribute to speculation about who may have been responsible for any acts that were intentional for which credible evidence was not provided.

In its comments, the White House cited several cases where we failed to report information regarding what staff said other people had seen or had told them. This is correct; in reporting the observations, we did not include information people relayed to us from third parties. We reported what people told us they personally observed. In addition, in certain cases, the White House cited statements in its comments that it claimed staff had said that were not contained in our interview records. An associate counsel to the president told us that, in preparing the White House's comments, she discussed the accuracy of statements attributed to EOP staff in the report draft with those individuals. Had we known in advance that an associate counsel to the president was going to recontact the EOP staff we interviewed, we would have asked to participate in those discussions. Since we did not participate in those discussions, we have no information about the context or manner in which they took place. Therefore, we reported only what our interview records indicated EOP staff told us.

Although we would typically confirm our understanding of statements made to us during interviews directly with the interviewees whenever a question or doubt arises, this was problematic in this review due to the protocol established by the White House for our work. Under this protocol, we were asked to provide written requests for follow-up interviews or additional documentation to the counsel's office, and all such interviews were arranged by that office. This was a time consuming process that at times involved significant delays in gaining access to the individuals we sought to interview. Had we been granted direct, prompt access to the people we needed to interview, we would have been in a better position to have quickly and efficiently resolved any questions or misunderstandings that may have arisen. Nonetheless, with the exception of one follow-up interview, at least two GAO staff attended interviews in the White House complex, and we believe this approach provided reasonable assurance that we accurately captured what the interviewees told us.

Regarding the White House's statement that, in many cases, in reporting a former staff member's comments in response to a particular observation, we had not discussed the observation itself, each observation was included in summary fashion, and in some cases, in detail, before we reported the comments by former Clinton administration staff. In a few cases, in response to the White House's comments, we added additional detail regarding an observation. Moreover, although we reported every observation in summary fashion, we did not obtain comments from former Clinton administration staff regarding all observations, nor did we report every comment provided by former Clinton administration staff. Further,

we did not report positive actions that people said former Clinton administration staff had taken to facilitate the transition or welcome new staff because they did not directly relate to the allegations.

Regarding the specific contents of graffiti, messages, and signs, we did not believe that it was appropriate or necessary to report their specific contents. Although most of the messages reportedly observed or heard did not contain profane language, some of them did. However, we will not report them and, thus, we decided to redact an obscene word that the White House included in its comments in reference to a message that was found. Further, although we did not report their specific content, we described the general nature of those messages. We believe that the White House is being speculative in suggesting that reporting their specific content would provide indications of who wrote them and when they were written and would provide an insight into the mind-set of the person who wrote them. Further, although whoever left a vulgar or derogatory message could have been responsible for other incidents that were observed near the location of the message, no substantive evidence was presented linking messages to other incidents that were observed. We also do not believe that reporting the specific contents would have provided a meaningful opportunity to compare the 2001 transition to previous ones because we also did not report the specific content of signs and messages that were found during previous transitions, nor was there sufficient information about the condition of White House office space during previous transitions to make a meaningful comparison.

In a draft of this report, we had characterized a sticker that said "jail to the thief" as being "arguably" derogatory to the president because we did not know the intent of the person who left the message. However, in response to the White House's comments, we deleted "arguably." We informed an associate counsel to the president of our intention to make this change before the White House sent us its May 31 letter raising this concern.

Although we agree with the White House's view that it is solely responsible for its comments, we are publishing its comments as part of our report, and we are responsible for our report. Further, although we would normally not make any changes to an agency's comments on our draft report, the situation in this case is highly unusual and, in our view, calls for an unusual step on our part. With respect to the White House's objection to our redaction of a word contained in a sign found during the transition, the word in question is clearly obscene and, in our independent and professional judgment, should not be used in a public report that bears

GAO's name. As a result, we have deleted this word from the White House's comments, used "*" to reflect the number of letters in the word, and indicated that GAO deleted an obscenity. By doing so, we believe that readers will know that an unacceptable word was used in a message left in the White House complex during the 2001 presidential transition. In addition, because the word was part of its comments, we will refer inquiries about this matter to the White House. Finally, we do not believe that our deletion of one word out of over 70 pages of detailed comments, with full disclosure of the reason why we deleted it, seriously undermines the White House's comments.

June 2001 List of Damage

The White House objected to our structuring the report around the June 2001 list of damage and comparing the staff members' observations with the contents of the list. In stating its objection, the White House highlighted the cautionary statement that the counsel to the president made in transmitting the list to us. Further, the White House indicated that we did not ask the individuals who prepared the list to explain how the list was prepared, who transcribed it, what its purpose was, and or what each line referred to. In addition, the White House indicated that we, at times, misstated the contents of the list.

We structured appendix I, but not the letter portion of this report, around the June 2001 list because the list highlighted congressional and other interest in initiating our review. Further, interviewees were not restricted to observations about items on the list. Rather, during our interviews, we solicited observations regarding anything that could be damage, vandalism, or pranks. Before the list was prepared, the OA director informed us in writing that no documentation existed regarding the allegations. On page 2 of our draft report and this report, we quoted the counsel to the president's cautionary remarks about the list that were contained in his June 4, 2001, transmittal letter to us. Further, we note that, according to an article in the June 4, 2001, issue of the *Washington Post*, the White House press secretary provided the list to the newspaper, which suggested that the White House had sufficient confidence in its contents to release it publicly. In addition, the White House's assertion is incorrect that we did not ask the individuals whose names appeared on the list to explain how it was prepared. Our record of a June 6, 2001, entrance conference at the White House indicated that the OA director, who contributed to the list, discussed at that meeting how it was prepared. Further, our initial interviews of EOP staff included four of the five individuals who helped prepare the list, which allowed us to ask them about their observations, and, in one case,

our interview records indicated that one of the individuals said that a statement on the list "bothered" him. Regarding the White House's statement that we often misstated the contents of the list, we summarized the contents of the list on page 2 of the report and revised the report as necessary to quote directly from the list throughout the remainder of the report.

Number of Observations Reported

The White House said that we materially understated the number of observations, and that our methodology of calculating the ranges was flawed. For example, the White House objected to the method that we used to calculate a range of keyboards observed with missing and damaged "W" keys. The White House said that our flawed methodology infected each of the ranges presented in the report. Further, the White House also said that the problem with our analysis was compounded because, in the instance cited, we had grouped three offices together.

As indicated in our report regarding the methodology used to report the number of keyboards observed with missing or damaged "W" keys, we reported a range representing the number of incidents observed because some staff said they saw different numbers of incidents in the same rooms or offices. Our methodology in calculating the range of keyboards with missing or damaged keys, as well as for other categories of observations, was used to include both the lowest and the highest numbers that were reported to us in particular locations and to eliminate possible double counting. The White House mischaracterized how we determined our range in the hypothetical cases it provided. For example, in the hypothetical case involving three people who observed 1, 25, and 100 incidents, respectively, the White House said that, using our methodology, we would calculate the range of total observed incidents as being from 1 to 126, which the White House said would be an absurd conclusion. However, the White House's application of our methodology in this hypothetical case is incorrect and would have resulted in the wrong conclusion; our range of observed incidents in that location would be 1 to 100. The White House similarly mischaracterized the other example it gave on this issue.

We disagree with the White House's argument that, when multiple people provided different numbers of observations in the same specific locations, the lowest number observed in a particular location cannot be used as the low end of the range. We used ranges to account for the different observations made in the same locations and did not make any judgments about which observation was correct because it was not possible in many

cases to do so. We believe this approach is the most accurate and objective depiction of views that were shared with us. Further, we did not conclude what the precise numbers of incidents observed in various categories were because they would have been impossible to determine. Regarding the situation that the White House cited when we grouped observations of keyboards with missing and damaged "W" keys in three offices, we did it that way because an EOP employee said that her observation pertained to them.

Use of the Term "EOP"

The White House objected to our use of the term "EOP" staff, rather than identifying the specific EOP unit being discussed. The White House said that it is not accurate to refer to each EOP unit individually or all units collectively as the EOP because not all offices in the complex fall within the EOP umbrella and that we did not investigate all EOP units. Further, the White House said we had inaccurately referred to EOP units as agencies.

Except for staff we interviewed who worked for the Secret Service, GSA, and the Executive Residence, all of the people we interviewed at the White House complex worked for or had worked for the EOP. We did not believe that it was necessary to break out, in all categories of observations, staff members' respective EOP units, nor was it an objective of our review. However, when we reported specific observations or comments made by EOP officials, we used their titles, which identified their respective EOP units. To address the White House's comment that the term "EOP" may be over-inclusive, we added a note to the report indicating that we did not interview, for example, any staff who worked for the United States Trade Representative, the Office of National Drug Control Policy, or the Office of Homeland Security. We also noted that most of the EOP staff we interviewed who worked at the White House before January 20, 2001, worked for OA.

Concerning the White House's comment that we misidentified units that comprise the EOP and misidentified EOP components as "agencies," we understand that the Executive Residence, although treated as "analogous to an EOP unit" (by the court, e.g., in *Sweetland v. Walters*, 60 F. 3d 852, 854 (D.C. Cir. 1995)), is technically not an EOP component because it was not

created as such.[13] Notwithstanding this technicality, we had listed the Executive Residence as an EOP component because it is shown as such in the White House staff manual that was in effect at the time of the transition and in the *Budget of the United States Government, Fiscal Year 2003*. To recognize the White House's comments about this issue, however, we deleted the Executive Residence from our list of EOP components.

On the other hand, we do not agree with the White House's objection to our characterization of EOP components as agencies. We recognize, as the White House contends, that EOP components are not all treated as agencies for purposes of the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (*Sweetland v. Walters*, *supra*), although some are. *Armstrong v. Executive Office of the President*, 90 F. 3d 553, 559 (D.C. Cir. 1995). However, a government entity may be an agency for some purposes but notfor others. We have, for example, consistently viewed the Executive Residence as an agency in applying 31 U.S.C. 716.[14]

Reporting the Extent of Damage

Finally, the White House said that we made a concerted effort to downplay the damage found in the White House complex because we (1) did not individually report each instance of vandalism, damage, or a prank; (2) underreported the number of observations in nearly every category of damage and ignored additional observations that were made; (3) omitted any mention of several individuals who told us that damage found during the 2001 transition was worse than during prior transitions; (4) ignored documents that showed requests were made to repair telephone damage and clean offices; (5) failed to quantify or estimate certain real costs incurred to remedy or repair the damage; (6) failed to report the content of the graffiti and signs that were found in the complex; and (7) were unwilling to conclude that the vandalism, damage, and pranks were intentional, even when the circumstances plainly indicate that they were.

We did not downplay the damage found in the White House complex, as the White House suggested. Rather, we tried to eliminate possible or actual

[13]See Reorganization Plan No. 1 of 1977, reprinted in 3 U.S.C., Ch. 2, note at 431, 434 (1994) (Message of the President) (listing units within the EOP).

[14]See *The White House: Status of Review of the Executive Residence*, pages 6-7, Statement of Robert P. Murphy, General Counsel, U.S. General Accounting Office, November 6, 1997, before the Subcommittee on Treasury, Postal Service, and General Government, Committee on Appropriations, House of Representatives.

double-counting of observations, present the information fairly and objectively, and avoid speculation. Regarding the White House's statement (1) that we omitted a reference to each reported instance of vandalism, damage or a prank, as previously explained, all of the reported observations were reported in a summary fashion (i.e., total number of observations in a particular category) and some were also discussed in detail. We also disagree with the White House's statement (2) that we underreported the number of observations in nearly every category of damage and ignored additional observations that were made. As previously explained and discussed in appendix V in our response to the White House's specific comments, we reported the number of observations in various categories as a means of eliminating possible or actual double-counting. Regarding the White House's statement (3) that we omitted any mention of several individuals who told us that the damage found during this transition was worse than prior transitions, the letter portion of the report summarized these individuals' observations, and appendix II contained statements by six EOP staff that the condition of the White House complex was worse in 2001 than during previous transitions. Consequently, we did not revise the report. Regarding the White House's statement (4) that we ignored documents that showed requests were made to repair telephone damage and clean offices, the report in fact cited several facility requests for cleaning and telephone service orders, but we could not conclude that they documented intentional damage. This conclusion is inconsistent with the OA director's April 2001 letter in which he stated that repair records do not indicate the cause of repairs. Further, we did not ignore any of the documentation that the EOP provided, but carefully reviewed all of the documentation that was provided. Finally, the White House did not provide us with copies of all of the documents related to telephone repairs that it cited in its comments.

Regarding the White House's statement (5) that we failed to quantify or estimate certain real costs incurred to remedy or repair the damage, it was not our objective to independently estimate or determine all such costs, and we clearly stated in our report that we did not do so. We did not obtain repair and replacement costs for all reported incidents because we did not believe that they would be readily available or material, nor did we believe that the value of the information would have been commensurate with the level of resources required to obtain and verify such data. Regarding the White House's statement (6) that we failed to report the content of graffiti and signs that were found in the complex, as previously discussed, we did not believe it was necessary or appropriate to include their specific content in this report, but we did describe their general nature. Finally, contrary to

the White House's assertion (7) that we were unwilling to conclude that the vandalism, damage, and pranks were intentional, even where the circumstances plainly indicated that they were, we stated in our conclusions that incidents such as the removal of keys from computer keyboards; the theft of various items; the leaving of certain voice mail messages, signs, and written messages; and the placing of glue on desk drawers clearly were done intentionally. However, we also concluded that it was unknown whether other observations, such as broken furniture, were the result of intentional acts and when and how they occurred.

Government Auditing Standards

In its specific comments, the White House identified instances in which it did not believe that the oral evidence or the amount of detail included in the report was sufficient to meet provisions of the *Government Auditing Standards* pertaining to the competency of evidence or the objectivity and completeness of reports. Although we address the White House's specific substantive points in appendix V of our report, we believe that it is important to state here that the report does comply with *Government Auditing Standards*. In citing the particular standard in question, the White House either did not cite the entire standard or all of the factors that must be considered in interpreting the standard, or both. For example, in discussing the competency of the oral evidence provided by an EOP employee, the White House described the employee's overall responsibility for handling telecommunications problems during the first month of the new administration and cited the following excerpt from *Government Auditing Standards* 6.54(f):

> Testimonial evidence obtained from an individual who…has complete knowledge about the area is more competent than testimonial evidence obtained from an individual who…has only partial knowledge about an area.

However, in addition to excluding a portion of this standard, the White House did not refer to other parts of standard 6.54 or other factors that need to be considered. Other relevant parts of standard 6.54 follow:

> 6.54 The following presumptions are useful in judging the competence of evidence. However, these presumptions are not to be considered sufficient in themselves to determine competence.
>
> 6.54(e) Testimonial evidence obtained under conditions where persons may speak freely is more competent than testimonial evidence

obtained under compromising conditions (for example, where the persons may be intimidated).

6.54 (f) Testimonial evidence obtained from an individual who is not biased or has complete knowledge about the area is more competent than testimonial evidence obtained from an individual who is biased or has only partial knowledge about the area.

Thus, in considering the competency of oral evidence, other factors besides a person's level of responsibility must be considered, such as the circumstance under which they provide the oral information; whether they are reporting what they observed versus what someone else said they saw; factors that could influence their objectivity; the reasonableness or consistency of the information presented compared to other information or facts; and the extent to which corroborating or contradictory information is provided. We gave appropriate and careful consideration of all of these factors in conducting this review.

Similarly, in interpreting other *Government Auditing Standards*, such as those related to the objectivity or completeness of reports, considerable judgment must be exercised regarding the amount of detail provided to promote an adequate and complete understanding of the matters reported and to present the information in an unbiased manner with appropriate balance and tone. This must be done so that readers can be persuaded by facts, as called for by the standards (7.50, 7.51, and 7.57). In making judgments about the level of detail to provide, it must be recognized that too much detail can detract from a report, as previously discussed. But, even more importantly, aside from the level of detail, the competency and sufficiency of the evidence and completeness of information must be considered, including differentiating between uncorroborated oral statements and substantiated facts. In judging what details to report and how to report them, it is also important to consider what information is not known about particular situations so as to avoid misleading readers into drawing inappropriate or premature conclusions.

Notwithstanding our disagreement with the White House's interpretation of *Government Auditing Standards*, we agree that efforts should be made to avoid possible misinterpretation of information in audit reports. In that regard, we have clarified our report where we felt it was appropriate.

Finally, both in its general and specific comments, the White House expressed concern about our exclusion of certain EOP staff observations

in the report, or what it views as our lack of consideration of the documentation it provided and our unwillingness to draw the same conclusions it did based on the information at hand. We believe that it is important to note here that many of the observations in question involved relaying views espoused by others, which we do not believe is acceptable evidence in these cases. Further, although we carefully reviewed and considered all of the evidence that the White House provided, we did not always believe it was sufficient to support the conclusions that the White House suggested or reached.

The White House did not provide any comments on our recommendations.

GSA Comments

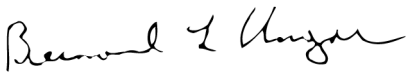
GSA's deputy commissioner of the Public Buildings Service said that GSA had carefully reviewed the draft report and agreed with the two recommendations regarding the logistics of future transitions. The deputy commissioner said that GSA had made every effort during transitions to meet the very considerable demands that are placed on the agency when several hundred staff move out of the White House complex. For this reason, the deputy commissioner said GSA believes that its ability to carry out its responsibilities during future transitions will be strengthened by working with the Office of Management and Administration of the White House Office to develop procedures for both office space inspection and cleaning and office space preparations. He added that improved communication will be an integral part of these procedures.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the chairman and ranking minority member, House Committee on Appropriations; the chairman and ranking minority member, House Appropriations Subcommittee on Treasury, Postal Service and General Government; the chairmen and ranking minority members, House Committee on Government Reform and Senate Committee on Governmental Affairs; the chairman and ranking minority member, Senate Committee on Appropriations; the chairman and ranking minority member, Senate Appropriations Subcommittee on Treasury and Postal Service; the deputy assistant to the president for management and administration; the administrator of the General Services Administration; former President Clinton; and the former deputy assistant to the president for management

and administration during the Clinton administration. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

Major contributors to this report were Bob Homan, John Baldwin, and Don Allison. If you have any questions, please contact me on (202) 512-8387 or at ungarb@gao.gov.

Sincerely yours,



Bernard L. Ungar
Director, Physical Infrastructure Issues

EOP and GSA Staff Observations of Damage, Vandalism, and Pranks and Comments from Former Clinton Administration Staff

This appendix contains the observations of Executive Office of the President (EOP) and General Services Administration (GSA) staff and former Clinton administration staff regarding the condition of the White House office space during the 2001 presidential transition. Staff we interviewed generally told us that they saw evidence of damage, vandalism, or pranks shortly before or at the beginning of the administration. The observations are discussed in the categories contained in the June 2001 list of damage.[15]

Some EOP staff said they believed that what they observed during the transition, such as broken furniture and excessive trash left behind, was done intentionally. Incidents such as the removal of keys from computer keyboards; the theft of various items; the leaving of certain voice mail messages, signs, and written messages; and the placing of glue on desk drawers clearly were done intentionally. However, regarding other observations, we generally could not make judgments about whether they were acts of vandalism because we did not have information regarding who was responsible for them, when they occurred, or why they occurred. Further, in most cases, we were unable to determine the exact number of incidents. When staff said they observed different numbers of incidents in the same location and/or category, we did not attempt to make judgments regarding which account was correct; rather, we used ranges. In the few instances where people observed a different number of items in a particular location, we used the lowest and highest numbers observed by different people in that location as the range. In addition, when an individual provided a range of the number of items that he or she saw, we included that range in our calculation of the total range of observations for that category. When people said they observed incidents, but did not provide a specific number, we did not estimate a number, but noted this situation when relevant. Our interviews were conducted between 5 and 16 months after the transition, and we recognized that recollections could have been imprecise. Further, in some cases, when we conducted follow-up interviews with certain individuals for the purposes of clarification, different accounts of their observations were provided. In those instances, we generally noted both accounts.

[15]As noted on p. 2 of this report, in transmitting the list of damage to us, the counsel to the president indicated that the list was not the result of a comprehensive or systematic investigation into the issue and should not be considered a complete record of the damage that was found.

In the overwhelming majority of cases, one person said that he or she observed a specific incident in a particular location. However, more than one person we interviewed observed most types of incidents. In some cases, people said that they observed damage, vandalism, or pranks in the same areas where others said they observed none, sometimes only hours apart. In calculating the number of incidents, we attempted to eliminate double counting when people said that they observed the same types of incidents in the same locations or could not recall any location. We included repair and replacement costs provided by EOP and GSA for some, but not all, reported damage, vandalism, and theft in this appendix.

When it opened in 1888, the Eisenhower Executive Office Building (EEOB), which was originally known as the State, War, and Navy Building and later as the Old Executive Office Building, contained 553 rooms. Over the years, the original configuration of the EEOB office space has been altered, and it now contains about 1,074 rooms. During the Clinton administration, the office space in the East and West Wings of the White House consisted of about 137 rooms.[16] EOP staff [17] cited about 100 rooms in the EEOB and 8 rooms in the White House where incidents were observed.[18] According to the Office of Administration (OA) associate director for facilities management, approximately 395 offices were vacated during the transition: 304 in the EEOB, 54 in the West Wing, and 37 in the East Wing.

Observations were made in 16 different units of the White House Office.[19] However, more observations of damage, vandalism, and pranks were made on the first floor of the EEOB in the offices of advance and scheduling, the counsel's offices, and the offices of the first lady; and on the second floor of the EEOB in the offices of the vice president, than in other offices.[20] Observations that were made in the White House are specifically noted in

[16]This included reception areas, restrooms, and other nonoffice space.

[17]GSA staff generally cited observations made on certain floors, rather than in specific rooms or offices.

[18]Room numbers were identified for most of the observations. Rooms in the West Wing do not have room numbers.

[19]This includes the names of two units that did not exist during the Clinton administration.

[20]The vice president has an office in the West Wing and a ceremonial office in the EEOB. Most of the vice president's staff work in the EEOB.

this appendix, while observations made in the EEOB are provided in the totals for each category or discussed as examples.

Missing Items

The June 2001 list indicated that six door signs, six medallions, two EEOB doorknobs, and a presidential seal were stolen.

Observations of EOP and GSA Staff and Related Documentation

Six EOP staff told us they observed that a total of 5 to 11 office signs, which are affixed with medallions (presidential seals about 2 inches in diameter) were missing. One of those six EOP staff also said he observed that six medallions were missing from office signs. These observations included an office sign that an EOP employee said that she saw a volunteer remove on January 19 outside an office in the EEOB. The EOP employee said that the person who removed the sign said that he planned to take a photograph with it, and that she reported the incident to an OA employee. Further, the EOP employee said that the person attempted to put the sign back on the wall, but it was loose. Two other EOP staff said they noticed that the sign outside that office was missing during the transition.

Four EOP staff said they saw that a total of 10 to 11 doorknobs, which may have been historic originals, were missing in different locations.[21] A February 7, 2001, GSA facility request form documented a request to "put doorknob on inter-office…door" in an office where an EOP employee said he observed two pairs of doorknobs were missing. A GSA planner/estimator who said he was in charge of repairing and replacing building fixtures in the EEOB, including office signs, medallions, and doorknobs, said he received no written facility requests made to GSA for replacing missing office signs, medallions, or doorknobs during the transition. He said that work done in response to the February 7, 2001, GSA facility request form was not to replace a missing doorknob, but to repair one that had a worn-out part. He also said that over the past 20 years, doorknobs have been found missing about a half-dozen times in the

[21]Another EOP employee said she observed that a doorknob was missing in the EEOB, but did not specify a location, so it is not included in the total above. It is unknown how many of these doorknobs were historic originals. The director of GSA's White House service center said that historic doorknobs, which are bronze cast and have different designs for the former State, War, and Navy Departments' sections of the EEOB, are favorite souvenirs of departing staff. (The EEOB was built between 1872 and 1888 to house the Departments of State, War, and the Navy.)

EEOB, and not only during transitions. In addition, he said the medallions are difficult to remove and that a special wrench is needed to remove them from an office sign.

An April 19, 2001, GSA facility request form documented a request for "replacement of frames & medallions," including an office where three EOP staff observed a missing office sign and medallion. The three other rooms that, according to the facility request form, needed office signs were located on one of two floors of the EEOB where an EOP employee observed four missing office signs. The OA associate director for facilities management said that much repair and replacement work was done during the transition without documentation being prepared because of the need to complete the work quickly. This official said, for example, that three to four missing office signs, a doorknob, and two or three medallions were replaced during the weekend of the inauguration without documentation being prepared.

The OA director for facilities management; the director of GSA's White House service center; and the Secret Service deputy special agent in charge, presidential protection division, White House security branch, said that a presidential seal was stolen from a door in the EEOB. The Secret Service provided an incident report indicating that a presidential seal was reported missing at 8:40 a.m. on January 19, 2001, and last seen at 6:30 a.m. that day. According to the report, the seal was molded, hand-painted, 12 inches in diameter, and had been attached to a door with glue and screws. The Secret Service deputy special agent in charge of the presidential protection division, White House security branch, said that fingerprints were taken from the door where the seal was located, but no suspects were identified. The OA associate director for facilities management showed us where the seal had been located.

EOP staff told us about additional missing items that were not contained in the June 2001 list. Two EOP staff told us that a total of 9 to 11 television remote control devices were missing from two offices.[22] In addition, two EOP officials said that about 20 cellular telephones could not be located in

[22]One of these two EOP staff worked in the office where the remote controls were observed missing during the previous administration. In the scope and methodology section of this report, we indicated the number of EOP staff we interviewed who worked in the White House complex before and after January 20, 2001, but did not break out the observations reported in this appendix made by staff who worked for the EOP before and after January 20, 2001.

the office where they belonged. Regarding the cellular telephones, the deputy assistant for operations in that office said that she was told by an OA employee at the beginning of the administration that the telephones could be found in a particular room; however, they could not be found anywhere in the office suite, so new ones were purchased. Two EOP staff said that two cameras were missing from an office in the EEOB, and another EOP employee said that an ethics manual that a former Clinton administration employee told him had been prepared could not be located.

Three EOP officials and one GSA official said that items that were on loan from a private collector and on display in the EEOB during the Clinton administration were found to be missing sometime after the beginning of the new administration. According to the OA senior preservation and facilities officer, the items consisted of a small oil painting, two china soup bowls, a china plate, a brass mantle clock, and a bust of President Lincoln. We were also provided with documentation describing these items. The director of GSA's White House service center said that he observed the items in the office (except for the Lincoln bust, which was in a different room, the vice president's ceremonial office) during the morning of January 20; but when he returned to the office in midafternoon, he noticed that many of the items were missing, but did not know the exact number.

In August 2001, the OA associate director for security said that the Lincoln bust had been returned from the former vice president (for more information about the return of the missing bust, see comments later in this section made by the former vice president's former staff). Regarding the other collector's items that had been on display in another office, this official also said that he had contacted several former Clinton administration staff who had worked in the office where they had been displayed and that he was unsuccessful in locating the items. The associate director for security said that all of the former Clinton administration staff whom he contacted said that the items were still in the office when they left on January 20. Further, the associate director for security said that he had contacted the person in charge of the contract movers who were working in that office on January 20; according to the associate director for security, this person said that the items were still there at 4:00 p.m. or 4:30 p.m. on January 20.

Costs

According to a GSA planner/estimator, it would cost $400 to replace an historic doorknob set (doorknobs on both sides of a door) with a solid brass replica, or $300 for a single historic doorknob replica; $125 for a new office sign with a medallion; and $75 to replace a medallion. Using those per-unit costs, if all of the items observed missing were replaced, it would have cost $2,100 to $2,200 for 9 to 10 doorknobs;[23] $625 to $1,375 to replace 5 to 11 missing office signs with medallions; and $675 to $750 to replace 9 to 10 missing medallions. However, because specific locations were not provided regarding some of the observations of missing items, we were unable to determine whether all of the missing items had been replaced. In addition, the estimated cost of replacing missing doorknobs assumes that all of the doorknobs that were observed missing will be replaced with historic replicas, which was unknown. It was also unknown how many of the doorknobs that were discovered missing were historic originals. We also did not obtain any information on the value of the original historic doorknobs.

The EOP provided purchase records indicating that it spent $2,040 for 26 cellular telephones on January 26, 2001; $729 for two cameras (including a digital camera costing $685) on March 16, 2001, and April 4, 2001; and $221 for 15 television remote controls on March 6 and15; June 5; and July 10, 2001. The OA associate director for facilities management estimated it will cost about $350 to make a replica of the presidential seal that was reported stolen which, as of March 2002, had not been replaced. Although we did not obtain a dollar value regarding the possible historic value of the seal that was stolen, according to the OA associate director for facilities management, the $350 purchase price would not purchase an exact replica of the brass seal that was stolen; the seal was purchased in the mid-1970s, and is no longer available; and the $350 would purchase a plastic-type casting.

[23]This total estimated cost assumes that all of the doorknobs that were observed missing, except for one, will be replaced with historic replicas. We deducted the value of replacing one historic doorknob from the total number observed missing because, as noted earlier, the GSA official in charge of building fixtures in the EEOB said that a facility request to install a doorknob in an office where one was observed missing during the transition was to perform maintenance on a doorknob with a worn-out part, not to replace a missing one. Another EOP employee said that she observed a missing doorknob in the EEOB during the transition, but could not recall the location. We did not count that doorknob in the total cost because it could have been the same one seen by other EOP staff.

Comments by Former Clinton Administration Staff

The former director of an office where an EOP employee told us that she saw someone remove an office sign said that an elderly volunteer in her office removed the sign from the wall on January 19, 2001. She said that she did not know why he had removed the sign. She said that she attempted to put the sign back on the wall, but it would not stay, so she contacted OA and was told to leave it on the floor next to the door. The former office director said that she left the sign on the floor, and it was still there when she left between 8:00 p.m. and 10:00 p.m. on January 19.

The former director of an office where an EOP employee told us that he observed two pairs of missing doorknobs said that the office had several doors to the hallway that at some time had been made inoperable, and he was not sure whether the interior sides of those doors had doorknobs.

The former occupant of an office, where an EOP employee told us he observed that two pairs of doorknobs were missing (interior and exterior doorknobs for two doors to the outside that were no longer used) and a bolt was missing from a lock, said that a bookcase covered the door to the outside, and he did not know if that door had ever had any doorknobs. He said that to the best of his recollection, the bookcase still covered the door when he left between 10:00 a.m. and 11:00 a.m. on January 20, 2001. He also said that he did not take any doorknobs. A former employee whose office was next door also said that shelves were in front of the door with the missing doorknobs when she worked in that office suite.[24]

The deputy assistant to the president for management and administration from 1997 to 2001 said that people frequently take items such as doorknobs from the EEOB to keep as souvenirs, and he believed that visitors to the building were responsible for most of the thefts. He estimated that two to three doorknobs were taken from the EEOB per year.

No former Clinton administration staff we interviewed who worked in the two offices where remote controls were observed missing by two EOP staff said they took the remote controls. In one of those two offices, we obtained comments from four former employees. One of those former employees said that it is possible that the remote controls were missing when she worked there; she remembered having to manually change

[24]The EOP employee who occupied this office at the beginning of the administration said that he put a safe in front of the doors with the missing doorknobs to keep them closed.

channels on a television set in that office, and she questioned why someone would take a remote control if they also did not have the television set. Another former employee said that some remote controls were missing from that office throughout the administration. A third former employee said that some of the televisions in that suite of offices did not have remote controls, and he was not sure whether they had ever had them. The fourth former employee said that it was possible that the remote controls were missing when he worked there.

The former director of another office where two EOP staff told us that she observed four to five missing television remote controls said that most of the television sets that were in her suite of offices were very old and may not have had remote controls. She said that she remembered staff in her office standing on chairs to manually change the channels on the televisions in the suite of offices.

The former director of the office from where two EOP staff told us two cameras were missing[25] said that the cameras were still in the office when she and her staff left between 9:30 p.m. and 10:30 p.m. on January 19, 2001. The former office director said that she was instructed to leave the office unlocked (she did not recall who gave her that instruction); she also said that, when the staff left, the cameras were left on an open shelf in the office.

Regarding an ethics manual that an EOP employee told us that he could not locate, a former official who handled ethics issues during the Clinton administration said that a manual containing ethics materials was being compiled at the end of the administration for the new administration staff, but he did not know where the manual had been left. Three other former employees who worked for that office said that they were unaware of such a manual.

With regard to the collector's items that two EOP staff and a GSA official told us were missing, the former director of the office where the items were displayed said that they were still in his office when he left at 12:30 p.m. on January 20 (except for the Lincoln bust, which was in another room). Another EOP employee who worked in that office during both the Clinton and Bush administrations said that she saw the items in the office at 5:00

[25]One of the EOP staff who told us about the missing cameras noted that the office where the cameras belonged was a locked office with an alarm.

p.m. on January 20, but she noticed that they were missing when she returned on January 22. She also noted that the office was left unlocked when she left on January 20 and that the items were left on open shelves.

Regarding a Lincoln bust that two EOP staff told us was missing, but was subsequently returned, a former employee who also worked the former vice president's transition office provided us with a copy of a July 6, 2001, letter that he received from the counsel to Vice President Cheney asking about the missing item. The former employee said that, after receiving the letter, he located the bust at former Vice President Gore's personal residence and that he returned it to the White House on July 11, 2001. The former employee also provided us with a July 11, 2001, letter to the counsel to the vice president, in which he wrote that "it appears that the bust was inadvertently packed with the personal effects of Vice President Gore." The former counsel to the former vice president told us that Mr. Gore did not pack his own items in his office at the end of the administration.

The former director of an office where an EOP official told us that she could not locate cellular telephones anywhere in the office suite where they belonged said that the former staff from that office turned in their cellular telephones as part of the check-out process. A former official from that office provided copies of the check-out forms completed for 71 staff who worked in that office indicating that the cellular telephones were returned or that the category did not apply to certain employees. A former employee who helped collect the cellular telephones in that office said that all of the cellular telephones were returned and that he left them on a shelf in his office.

Keyboards

The June 2001 list indicated that 100 computer keyboards had to be replaced because the "W" keys had been removed.

Observations of EOP and GSA Staff and Related Documentation

Twenty-six EOP staff told us that they observed a total of 30 to 64 computer keyboards with missing or damaged (glued, whited-out, or pushed down) "W" keys in specific rooms or offices.[26] We developed a range reflecting the observations because some staff said they saw different numbers of keyboards with missing or damaged "W" keys in the same rooms or offices and as a means of eliminating double counting. In calculating the range, we took the lowest number of keyboards with missing or damaged keys observed and the highest number observed in specific rooms or offices, and then added the observations of all people. The low end of the range could be understated, however, because some EOP staff did not indicate that they looked at every keyboard in a room or office or did not provide a specific number of keyboards that they observed with missing or damaged keys. Further, the high end of the range could be overstated because, in at least one case, the number of keyboards observed with broken or missing "W" keys was greater than the number of keyboards that former Clinton staff said was in that space.

Five other EOP staff said that they saw a total of four keyboards with inoperable, missing, or switched keys; they said they were not "W" keys or could not recall which keys were affected. In addition, five EOP staff and one GSA employee said that they saw 13 to 15 "W" keys taped or glued on walls;[27] five EOP staff said they observed piles of keyboards or computers or a computer monitor overturned; three EOP staff said that something was spilled on their keyboards; one EOP official said that she found 3 "W" keys in a desk; and one EOP employee said that his keyboard was missing at the beginning of the new administration.

In addition to the EOP staff we interviewed about their observations regarding the keyboards, we interviewed EOP personnel who worked with computers during the transition. The OA associate director for information systems and technology provided us with documentation indicating that on January 23 and 24, 2001, the EOP purchased 62 new keyboards. The January 23, 2001, purchase order for 31 keyboards indicated that "[k]eyboards are needed to support the transition." The January 24, 2001,

[26]This included the observation of the branch chief for program management of the OA information systems and technology division, who said she saw 6 to 10 keyboards with missing "W" keys in the West Wing.

[27]This included an observation of a "W' key taped to a wall in specific location in the West Wing. Two other EOP staff also said they observed "W" keys taped or glued on walls in the EEOB but did not specify how many.

purchase request for another 31 keyboards indicated "[s]econd request for the letter 'W' problem." The OA associate director for information systems and technology said that some of the replacement keyboards were taken out of inventory for the new administration staff, but she did not know how many. In an interview in June 2001, this official said that 57 keyboards were missing keys during the transition, and 7 other keyboards were not working because of other reasons, such as inoperable space bars. She also said that she believed that more of the keyboards with problems were found in the offices of the first lady and the vice president, compared to other offices.

After later obtaining an estimate from the branch chief for program management and strategic planning in the information systems and technology division, who worked with computers during the transition, that about 150 keyboards had to be replaced because of missing or damaged "W" keys, we conducted a follow-up interview with the OA associate director for information systems and technology. In February 2002, the OA associate director for information systems and technology said that her memory regarding this matter was not as good as when we interviewed her in June 2001, but she estimated that 100 keyboards had to be replaced at the end of the Clinton administration and that one-third of them were missing the "W" key or were intentionally damaged in some way. She also said that of those 100 keyboards, about one-third to one–half would have been replaced anyway because of their age. The official also said that she was not focused on the keyboards during the transition, but saw about 10 keyboards with missing "W" keys, some space bars that were glued down, and a lot of keyboards that were "filthy." This official said that she took notes regarding the computers during the transition, but she was unable to locate them.

An April 12, 2001, E-mail sent from the OA financial manager who approved the request to purchase 62 keyboards in January 2001 to an OA Information Systems and Technology Division branch chief indicated that

> There were a number of keyboards which had the 'W' missing/inoperable during [the] transition. Based upon our need to provide working keyboards to incoming EOP staff, we placed rush keyboard orders on January 23rd and January 24th. We ordered a total of 62 keyboards for a total cost of $4,850. This is the approximate number of keyboards that were defective.

The EOP provided a copy of a March 27, 2001, OA excess property report that was prepared regarding its disposal of computer equipment. The report indicated that 12 boxes of keyboards, speakers, cords, and soundcards were discarded, but did not specify the number of keyboards that were included. The contract employee who prepared that report said that she did not know how many keyboards were discarded, but that each box could have contained 10 to 20 keyboards, depending on the size of the box. The EOP also provided a copy of a February 11, 2002, E-mail from a computer contract employee to the OA associate director for information systems and technology indicating that the contract employee had told the OA employee that "… she excessed eight boxes of 'junk' after the transition. Six of those boxes each contained 20 or more keyboards with either the 'W' problem or a broken space bar." When we interviewed the contract employee who was referred to in the E-mail as having excessed damaged keyboards, she said that she did not pack all of the boxes and did not look at all of the keyboards, but that most of the keyboards that she saw were missing "W" keys. She also said that she did not know how many discarded keyboards had missing or damaged "W" keys and that she did not know how many damaged keyboards were discarded after the transition. Further, she said that some of the keyboards that were discarded had been waiting to be disposed of before the transition because they were dirty or because of wear and tear. In a February 2002 interview, the OA associate director for information systems and technology said that she believed that four of the boxes of excessed computer equipment contained damaged keyboards.

Costs

Because of the lack of documentation, we could not determine how many keyboards may have been taken out of inventory to replace keyboards that were intentionally damaged during the transition. As a result, it was not possible to determine the total costs associated with replacing damaged keyboards. However, we are providing cost estimates for various totals provided by EOP staff. In reviewing the costs, it must be recognized that according to the OA associate director for information systems and technology, one-third to one-half of the keyboards for EOP staff, including the ones provided to EOP staff at the beginning of the administration, may have been replaced anyway because staff receive new computers every 3 or 4 years. Therefore, some of the damaged keyboards would have been replaced anyway. We did not attempt to obtain information on any other costs that may have been associated with replacing damaged keyboards, such as those related to delivering and installing new keyboards.

Below is a table showing the different costs that could have been incurred on the basis of different estimates we were provided regarding the number of damaged keyboards that were replaced and the range we calculated regarding the observations of keyboards with damaged and missing keys. The cost estimates were calculated on the basis of the per-unit cost of the 62 keyboards that the EOP purchased in late January 2001 for $4,650, or $75 per keyboard.[28]

Table 1: Estimated Costs of Replacing Damaged Keyboards

Source of estimate regarding the number of damaged keyboards	Total replacement cost
Range of 30 to 64 keyboards that were observed by EOP staff with missing and damaged keys in specific rooms or offices	**$2,250-$4,800**
Estimate provided by the OA associate director for information systems and technology in February 2002 interview that one-third of 100 keyboards replaced during the transition were intentionally damaged, or about 33 keyboards; and a statement by her in June 2001 that 64 keyboards were missing keys or were inoperable in some way	**$2,475-$4,800**
Statement by an OA financial manager in an April 2001 E-mail that the 62 keyboards purchased in January 2001 were approximately the number of keyboards that were defective because "W" keys were missing or inoperable during the transition	**$4,850[a]**
Estimate by the branch chief for program management and strategic planning in the information systems and technology division, who worked with office equipment during the transition, that 150 damaged keyboards had to be replaced	**$11,250**

[a]Includes a $200 expedite fee.

Source: EOP staff.

Comments by Former Clinton Administration Staff

One former senior Clinton administration official said that he found the reports of keyboards with missing "W" keys to be believable but regrettable and indefensible. Two former employees said that they observed a total of three to four keyboards with missing "W" keys in offices in the EEOB at the end of the administration. Another five former Clinton administration staff said that they heard people talking about removing "W" keys or keyboards with missing "W" keys before the end of the administration, but did not see any keyboards with missing "W" keys or see anyone removing them.

[28]The EOP also paid a $200 expedite fee in January 2001, which we excluded in calculating the per-unit cost.

The former senior advisor for presidential transition questioned whether as many as 60 keyboards could have been intentionally damaged because, while helping with the downloading and archiving of data from computers during the morning of January 20, he moved about 50 computer central processing units[29] from offices in the EEOB during the morning of January 20 and did not see any "W" keys missing from keyboards. In addition, regarding an observation of two keyboards with missing "W" keys in a certain office suite, this former official said that he was in that office suite after 10:30 a.m. on January 20 helping with the downloading and archiving of data from computers, and he did not see any keyboards with missing "W" keys there.

The former manager of an office where an EOP employee said she observed 18 keyboards with missing "W" keys in an office suite said that there were 12 keyboards in that office suite at the end of the administration.

Furniture

The June 2001 list indicated that the damage included "[f]urniture that was damaged severely enough to require complete refurbishment or destruction--6 offices." It also indicated that a glass desk top was smashed and on the floor, and that desks and other furniture were overturned in six offices.

Observations of EOP Staff and Related Documentation

Ten EOP staff told us that they observed a total of 16 to 21 pieces of broken furniture, including 5 to 7 chairs with broken legs or backs; 5 to 7 broken glass desk tops, including one on the floor;[30] 1 to 2 chairs with missing or broken arms; a desk with the drawer fronts removed; a sofa with broken legs; a credenza with broken door glass; a broken mirror;[31] and a cabinet with its doors hanging with only one hinge.

[29]He said that these were computers from which information had not yet been downloaded.

[30]A GSA cleaning team leader said that the cleaning staff accidentally broke a glass top in an office, but that it was on the floor for only 10 to 15 minutes before it was cleaned up.

[31]A GSA facility request indicated that a request was made to fix a mirror in a certain office. However, the EOP employee who said that he observed a broken mirror could not recall where he saw it.

Six EOP staff also said that the locks on four desks or cabinet drawers were damaged or the keys were missing or broken off in the locks. This included the observation of a file cabinet with a key broken off, which, when opened, contained a Gore bumper sticker. Another EOP employee said that he saw that the fabric was torn on three chairs. This employee said that the tears were made in the same spots on two of the chairs, which he observed in a hallway, and that the fabric on them appeared to have been new. He thought that they had been intentionally cut with a knife. One EOP employee said that her desk had five to six large cigar burns on it, and other desks had scratches that she said appeared to have been made with a knife.

Five EOP staff also said that they observed writing inside drawers of five desks.[32] Four of these employees said the writing was found written inside the top drawers of the desks. The other employee could only recall on which floor he saw the writing. In August and September 2001, we were shown the writing in four of the five desks.

Five EOP staff told us that they saw a total of 11 to 13 pieces of furniture that were on their sides or overturned in specific rooms or offices. The five people who told us the approximate time that they observed overturned furniture said they made those observations between the early morning hours and the afternoon of January 20. In addition, another EOP employee and the director of GSA's White House service center said they observed overturned furniture, but did not indicate where. The director of GSA's White House service center also said that furniture could have been overturned for a variety of reasons other than vandalism, such as to reach electrical or computer connections. Further, five EOP staff also said they saw pieces of furniture that appeared to have been moved to areas where they did not belong, such as desks moved up against doors.

[32]The writing in one of the desks was dated January 1993.

Six EOP staff said they observed a total of four to five desks with a sticky substance on them between January 20 and 22 in two different locations (an office in the EEOB and an office area in the West Wing). In addition, three EOP staff said that they saw a total of two to four desks with handles missing on January 20 or 21. Included were the observations of two employees who worked in the West Wing who said that their desks had a sticky substance on the bottom of drawers or a pull-out tray (one of those two employees who worked in that area also said that her desk was missing handles); an employee who said that a desk in that area[33] had a sticky substance on the bottom of a drawer and was missing handles; an employee who said that another desk in the West Wing had glue on the bottom of a drawer and was missing handles; and an employee who worked in the EEOB who said that she had to scrub "sticky stuff" on her desk, but did not know what it was and that it could have been the accumulation of years of grime.

Documentation relating to the observations made in specific locations included the following:

- January 25 and 29, 2001, GSA facility request forms documented requests to gain access to and for a key to a locked file cabinet in a room where an EOP employee said that he found a key that was bent and almost entirely broken off in a cabinet that, once opened by a locksmith, contained Gore-Lieberman stickers. The facility requests were made by the EOP employee who told us about this observation.

- A January 30, 2001, GSA facility request form documented a request to fix a broken desk lock in an office where an EOP employee said the lock on her desk appeared to have been smashed. The facility request was made by the EOP employee who told us about this observation.

- A February 12, 2001, GSA facility request form documented a request to repair a leg on a sofa in an office on a floor of the EEOB where an EOP employee observed a sofa with broken legs.

[33]It was not clear whether this desk was one of the desks that belonged to the two staff who worked in that area and made the same observation.

- A February 21, 2001, GSA facility request form documented a request to repair arms on two chairs in an office where two EOP staff told us that they had observed broken chairs.[34] The facility request was made for the EOP employee who told us about this observation.

In August 2001, we observed the desk with the drawer fronts that were detached, which had not been repaired at that time.

Other GSA facility request forms for the period January 18, 2001, to February 27, 2001, documented furniture-related requests that were not in locations where EOP reported observing these types of problems. They included requests to repair a chair back, a desk lock, and a mirror, and five requests to repair or replace broken or missing desk handles. Also included were requests for furniture repairs that did not reflect observations made by EOP staff, such as a request to repair a bookcase.

Definitive information was not available regarding when the furniture damage occurred; whether it was intentional and, if so, who caused it. The management office director said that during the first two weeks of the administration, the EEOB was filled with furniture that had exceeded its useful life. She believed that the broken furniture that she saw was in that condition as a result of wear and tear and neglect and not something intentional. Similarly, an EOP employee who saw four chairs with broken legs placed in the hall said the chairs could have been in that condition due to normal wear and tear and were not necessarily intentionally damaged. The OA director said that some furniture was thrown away because it was damaged, but "not a lot." He said that some furniture was put into a dumpster, and other pieces were transferred to the EOP storage facility. He also said that damaged furniture was put in the halls.[35] In addition, he said that there were no records indicating that furniture was deliberately damaged, and that no inventory of furniture in the EEOB exists. An associate counsel to the president provided photographs of four pieces of furniture that she indicated were moved to an EOP remote storage facility that is now quarantined. They included a chair with a missing leg, a chair with a missing back, a sofa without a seat cushion, and a desk with missing

[34]One EOP employee (the occupant of that office at the beginning of the administration) said that the arms on two chairs in his office were loose. Another EOP employee said that the arms were missing from a chair in that office.

[35]Two of the three EOP staff who observed the chairs with broken legs and backs said that they placed them in the halls for removal.

drawer fronts. No information was provided regarding from which offices these pieces of furniture had been taken or when or how the damage occurred.

Costs

GSA provided facility request forms dated between January 18, 2001, and February 27, 2001; we reviewed these and found 49 furniture-related requests that cost a total of $6,964 to complete. Some individual repair costs were substantially more than others, such as $1,855 to refinish a desk and $628 to repair a bookcase. It was unknown what portion of those repair costs, if any, was the result of intentional damage caused during the transition. Further, the work requests for some repairs indicated that they included work other than furniture repair.

GSA facility request forms relating to observations made in specific locations indicated that about $258 was incurred and included the following:

- $75 to repair arms on two chairs,
- $75 to repair a sofa leg,
- $54 to gain access to a locked file cabinet, and
- $54 to fix a broken desk lock.

We did not obtain any additional possible costs related to other furniture-related observations, such as those associated with placing overturned furniture upright, removing glue that had been left on desks, or replacing broken glass desk tops.

Comments by Former Clinton Administration Staff

A former Clinton administration employee who worked in an office where an EOP employee showed us writing in his desk told us that he wrote a "goodwill" message inside a drawer of his desk. This former employee said that he obtained the idea to write a message inside of his desk because, historically, vice presidents sign the inside of a desk in their office.[36]

[36]According to a page on the White House Web site, which contains a description of the EEOB, vice presidents since the 1940s have signed the inside top drawer of the desk in the vice president's ceremonial office.

Clinton administration officials said that some of the space they vacated needed cleaning and that a conscious decision had been made early in the administration not to spend much money on repairs and upkeep during the administration in view of the generally tight budget; therefore, it could be expected that some furniture showed wear and tear. The former director of one office where EOP staff told us they observed two to four pieces of broken furniture said that the office furniture had been in poor shape for some time, but the staff tolerated it. He said that they did not want to send the furniture away to be repaired because it was uncertain how long it would take or whether the furniture would be returned.

The former manager of an office where two EOP staff told us they observed one to two chairs with broken or missing arms said that arms on two chairs in that suite of offices had become detached a year or two before the transition, that carpenters had tried to glue them back, but the glue did not hold. We asked GSA to provide facility request forms for 1999, and we found two requests to repair chairs in that office suite made by the former office manager.

A former Clinton administration employee who worked in an office where three EOP staff told us they observed a desk with two detached drawer fronts said that the fronts of two drawers on his desk had come off when he worked there and that someone was contacted once or twice over 5 years to have them fixed, but the glue did not hold. In addition, this former employee said, regarding observations by EOP staff of two to three chairs with broken backs in his office, that a chair with a broken back had been in his office for a long time before the transition. Another former employee in that office said that he remembered that the front of a drawer of the other employee's desk was held on with rubber bands and that it had been that way for about the last 2 years of the administration.

The former director of an office where an EOP official told us he observed a broken glass desk top on the floor during the afternoon of January 20 said that he did not observe that when he left the EEOB at about 1:00 a.m. on January 20, and he said that he and the deputy director were the last office staff to leave. Similarly, the former senior advisor for presidential transition said that he was in the same office after 11:00 a.m. on January 20, and he did not see a broken glass desk top.[37]

Three former staff who worked in an area of the West Wing where five EOP staff told us they found glue or a sticky substance on two to three desks said that they left the White House between midnight on January 19 and 4:30 a.m. on January 20 and were not aware of glue being left on desks. One of those former employees who worked in that same area where EOP staff said they observed one to three desks with missing handles said that her desk was missing handles when she started working at that desk in 1998, and it was still missing them at the end of the administration.

The former occupant of an office suite where an EOP employee told us she observed a desk with five to six large cigar burns said that there may have been a burn on one of the two desks in his office, but he did not put it there. He said that he smoked, but not cigars, and not in his office. This former employee also said that with respect to an additional observation by an EOP employee that a desk in the office suite had scratches on it that appeared to have been made with a knife, he did not recall seeing any scratches on either of the two desks in his office.[38] Similarly, the former senior advisor for presidential transition said that he was in the same office after 10:30 a.m. on January 20, and he did not see any scratches on a desk in that office.

[37]A National Records and Archives Administration (NARA) official said that she went to various offices in the EEOB with the former senior advisor for presidential transition around 11:00 a.m. on January 20, checking to see whether presidential materials had been obtained from computers. This NARA official said that she did not remember the specific rooms where she went that morning, but she did not see any evidence of damage, vandalism, or pranks.

[38]The same EOP employee made both observations about the burn marks and scratches. During our initial interview with this employee, she said that the desks with burn marks and scratches were in a particular office. During a follow-up interview 4 months later, she said her observations pertained to an office suite, rather than a single office.

Three former occupants of a suite of three rooms where two EOP officials told us they observed a table and two desks overturned in the afternoon of January 20[39] said that no furniture was overturned in their offices when they left on January 20 and that their desks would have been difficult or impossible to move because of the weight of the desks. One of the three former occupants said that he was in his office until 3:30 a.m. or 4:30 a.m. on January 20, the second former employee said he was in his office until 10:00 a.m. or 11:00 a.m. on January 20, and the third former employee said that she was in her office until 11:50 a.m. or 11:55 a.m. on January 20.

Regarding another office where an EOP official told us that he observed overturned furniture between 3 a.m. and 4 a.m. on January 20, the former senior advisor for presidential transition said that he was in that office after 11:00 a.m. on January 20, and he did not see any overturned furniture. Similarly, the former director of that office, who said that he left the office around 1:00 a.m. on January 20, said that he did not observe any overturned furniture.

Regarding furniture in a hallway of the EEOB that an EOP employee said she observed,[40] two former employees who worked in an office outside of which the furniture was seen in the hallway said that they had moved bookcases, file cabinets, tables, and chairs out of their office into the hallway to help the cleaning staff at the end of the administration.

Telephones

The June 2001 list indicated that:

- "The phones [sic] lines had been cut in the EEOB--pulled from the wall."
- "50-75 phone instruments had been tampered with requiring more work than the standard reset. Of those, most had the identifying templates removed."
- "Voice mail announcements had been changed to answer the line with obscene messages. After finding 10–15, workers stopped resetting them individually and reset the entire system."

[39]The OA director, who observed overturned furniture in this office, said that he began touring the floor of the EEOB containing this office starting at 12:02 p.m. on January 20.

[40]The EOP employee said that furniture was in the hallway so that offices could be cleaned.

- "A stu3 phone[41] in the First Lady's office was left open with the key in it."

Observations of EOP Staff and Related Documentation

Two EOP staff told us that they saw a total of 5 to 6 telephone lines "ripped" (not simply disconnected) or pulled from the walls during the early morning hours of January 20.[42] In addition, the OA director said he saw some plugs that looked like they were damaged, and another EOP employee said that she saw a telephone cord that appeared to have been cut with scissors. One EOP employee said that she saw at least 25 cords torn out of walls in two rooms on January 22.[43] That employee did not know exactly what types of cords were torn out of the walls, but said she thought that they were telephone and computer cords and also could have been fax and electrical cords. A January 24, 2001, GSA facility request form documented a request to "organize all loose wires and make them not so visible" in an office suite where an EOP employee said that at least 25 cords were pulled from the walls. The facility request was made by the EOP employee who told us about this observation.

[41]This is a secure telephone.

[42]The OA associate director for facilities management, who was one of the two EOP staff who made these observations, told us that telephone cords were ripped out of walls in a certain office, but did not indicate how many he saw. That office was located on one of two floors where he said he observed 3 to 4 telephone cords ripped out of walls.

[43]This EOP employee originally said that 25 telephone and computer cords were torn out of office walls. In a follow-up interview, this employee said that the cords also could have been electrical and fax cords, but did not know for certain. She also could not recall whether the cords were torn out of several walls or whether they were concentrated in a certain area.

Five EOP staff said they observed a total of 98 to 107 telephones that had no labels identifying the telephone numbers in specific rooms or offices.[44] Further, an EOP employee who coordinated telephone service during the first month of the administration estimated that 85 percent of the telephones in the EEOB and the White House were missing identifying templates or did not ring at the correct number.[45] She did not identify the locations of these telephones, which could include those that were observed without identifying labels by four other EOP staff. This employee said that she was the "middleman" between EOP staff and contractors regarding the telephones during the first month of the administration, and that she went into every office of the EEOB and the White House during that time.

The OA telephone services coordinator said she believed that telephone labels were removed intentionally and that "quite a few" labels were missing during the transition, but she did not agree that 85 percent of the telephones were missing them. She said that she had observed 18 telephones that were missing number labels.[46] The telephone service director said that in one room, missing telephone labels were replaced before noon on January 20, but were found missing again later that day.

Five EOP staff said that 13 to 19 telephones were forwarded to ring at other numbers.[47] Further, the EOP employee who coordinated telephone service during the first month of the new administration estimated that about 100 telephones were forwarded to other numbers, but, with one exception, did not specifically identify which telephones.

The telephone service director said the numbers for telephones that were missing identifying labels were determined in most cases by placing calls

[44]This range included 82 telephones in a suite of offices in the EEOB where an official said that all of the telephones were missing identifying templates at the beginning of the administration. The EOP estimated that there were 82 telephones in that office in January 2001. The range does not reflect a number of telephones with missing labels in an office where the telephone service director said that he saw them missing, but did not specify how many.

[45]We counted 699 telephone numbers in the EEOB and East and West Wings of the White House in the February 2001 EOP telephone book; 85 percent would have been about 594 telephones that were missing identifying labels or did not ring at the correct numbers.

[46]This observation was included in the total range of missing labels provided in this section.

[47]This included one report of calls being forwarded from the West Wing.

and noting what numbers appeared on the displays of receiving telephones. He also said that another way to identify the telephone numbers was for a telephone technician to obtain them from the telephone service provider. This official also said that, although there is a standard form for telephone service requests, preparation of this paperwork was not required between January 20 and 22 because of the urgency to get new employees moved into their offices.

Seven EOP staff, including the telephone service director, said they saw telephones unplugged and/or piled up on two floors of the EEOB and in four specific rooms on those floors. Two EOP staff said that they found telephones that were not working. One of those employees told us that, because many telephones were not working in a section of a floor of the EEOB, the switchboard forwarded calls from that area to other offices where telephones were working, and that she walked from office to office delivering telephone messages. In addition, one EOP employee (a different employee for each of the following observations) said that he or she observed "some" telephones that were moved to other rooms while still connected, two telephones plugged into the wrong plugs, and one telephone with an incorrect number.

The EOP provided documentation that summarized telephone service orders closed from January 20, 2001, through February 20, 2001, and contained 29 service orders that cited needing or placing labels; 6 of the 29 service orders were for work in offices where telephone labels were observed missing.[48] All of the 29 service orders mentioning labels were part of orders for other telephone services, as were four individual work orders EOP provided that cited labeling that were not part of the 29 service orders. In discussing the telephone service requests, the OA telephone services coordinator said that the requests for labels did not necessarily mean that the telephones had been missing labels with telephone numbers. She said that a new label might have been needed for a new service, such as having two lines ring at one telephone. Documentation provided by the EOP included a work order to retrieve a telephone that was on the floor in one room, and another work order that said, in part, "replace labels on all phones that [sic] removed." The documentation did not include any work orders indicating that work was performed specifically to correct the forwarding of telephone calls.

[48]None of the service orders mentioning labels were for work in the East or West Wings of the White House.

Two EOP employees who helped establish telephone service for new staff said that they heard a total of 6 to 7 obscene or vulgar voice mail messages that were left on telephones in vacated offices. These employees could not recall the specific content of the messages or the locations of the telephones. In addition, 13 EOP staff said they heard a total of 22 to 28 inappropriate or prank voice mail greetings or incoming messages left. Included in these total numbers was the statement of the telephone service director, who told us that he heard 10 inappropriate voice mail messages, 5 to 6 of which were vulgar, during the early morning hours of January 20.

The content of the most commonly heard voice mail message that EOP staff told us about (3 messages heard by four EOP staff) was that the former staff would be out of their offices for the next 4 years. Two EOP staff said they heard a voice mail greeting left by a former Clinton administration employee, who identified himself in the message, that said he would be out of the office for 4 years due to the Supreme Court decision and left his home telephone number. The telephone service director said that EOP staff needed to be physically present in the White House complex to record these greetings on their voice mail by using a passcode.

Ten EOP staff said that they had no voice mail service when they began working in the White House complex. The telephone service director said that they initially attempted to erase inappropriate and vulgar voice mail messages on an individual basis, but it was eventually decided to erase all of them. The OA associate director for facilities management said that no record was kept of voice mail complaints, but so many complaints were received about them that voice mail service was discontinued for a while to clear out the system. This official said that no one had access to voice mail for at least 5 days and possibly up to 2 weeks. This official said that he made the decision not to erase all voice mail messages and greetings at the end of the administration because doing so would have deleted voice mail for all EOP staff, including staff who did not leave at the end of the administration, and not just for the departing staff. The OA telephone services coordinator said that voice mail greetings and messages were not removed on a systemwide basis at the end of the Clinton administration because the EOP had not yet done an equipment upgrade, which was done later.

Two EOP officials said they observed a stu3 (secure) telephone with the key left in it. We interviewed the director of operations support at the White House Communications Agency (WHCA), which coordinates the installation of secure telecommunications equipment in the White House complex. This official said that WHCA had no record of having installed a secure telephone in the office where EOP staff said they observed it and did not know whether such equipment had been used during the Clinton administration. He also said that, for the equipment to be operational in a secure mode, the key in the receiving equipment also must be engaged. The official said that, typically, this type of equipment is picked up from offices by WHCA at the end of an administration, but because the agency had no record of the equipment in that office, it was apparently left there.[49]

Costs

According to the White House, based on what it said was extremely conservative estimates and straightforward documentation, the government incurred costs of at least $6,020 to replace missing telephone labels and reroute forwarded telephones. The documentation provided included two blanket work orders and associated bills, a closed orders log for the period January 20 through February 20, 2001, 8 individual work orders for telephone service, and two monthly AT&T invoices. The White House also identified, but did not provide 19 other individual telephone service work orders that it used in its cost estimate for or placing labels on telephones.

Six of the 29 work orders listed on the closed orders log that cited needing or placing labels and four individual work orders that included labels were for work in offices where telephone labels were observed missing. However, both the orders listed on the closed orders log and the individual work orders, as well as the blanket work orders, cited other services besides labeling, and it was not clear to us from the documentation provided the extent to which relabeling was done solely to replace missing labels or would have been necessary anyway due to changes requested by new office occupants. None of the documents provided specifically cited correcting forwarded telephones. The documentation provided included blanket work orders representing 114 hours for work done on January 20

[49]This official said that another secure telephone with the key in it was found in the West Wing at the end of the administration. He said that typically, at the end of an administration, the employee to whom the equipment is assigned contacts WHCA to have it picked up. The official did not know whether WHCA had been contacted in that case.

and 78.5 hours for work on January 21. Costs associated with individual services were not identified for the blanket work orders, but they indicated that the services were for "install, moves, relabeling, rewire, etc." The summary of work orders closed between January 20, 2001, and February 20, 2001, listed work orders for services such as installing new telephones and fax lines, replacing labels on telephones, clearing voice mail, resetting passwords, and reprogramming telephone numbers.

The OA telephone services coordinator estimated that a technician could determine the numbers for 20 to 30 telephones per hour, but also indicated that a technician's $75.92 hourly charge ($113.88 per hour on Saturdays and $151.84 per hour on Sundays) would be charged even if it took less than an hour to complete a service order. Although we do not question that costs were incurred to replace labels or reroute forwarded telephones, we do not believe the documentation provided is clear or descriptive enough to indicate what those costs were.

A January 29, 2001, telecommunications service request documented a request for services including "replace labels on all phones that [sic] removed," but the orders closed log for this service request showed "install new [numbers]/replace label." This service request was not made for an office where telephone labels were observed missing.

A February 7, 2001, telecommunications service request documented a request to remove a telephone from an office where piles of telephones were observed at a cost of $75.92.

Comments by Former Clinton Administration Staff

Regarding observations by EOP staff that telephone cords were "ripped" from walls, one former Clinton administration employee said that cords may have been pulled out of walls as a result of moving. She said that she remembered seeing two telephone cords pulled out of walls previously, but not around the time of the transition, which she believed was the result of an office move. Another former Clinton administration employee noted that, with respect to the observation that telephone cords were cut, when the carpet was being stretched in an office, a computer cord was cut with a carpet stapler.[50] (She said this did not occur during the transition.)

The former occupant of an office suite (consisting of his office and a reception area) where an EOP employee told us she observed more than 25 cords torn out of the walls said that he did not observe any computer or telephone cords that were cut or torn out of the walls in any office when he was helping to remove hard drives from computers during the morning of January 20. He said that his office had only 5 telephone and computer cords when he worked there.[51] Similarly, the former senior advisor for presidential transition said that he was in that office after 10:30 a.m. on January 20, and he did not see any telephone or computer cords cut or torn out of walls.

[50]The director of GSA's White House service center said that there were "any number" of reasons why problems could have been observed with telephone and computer wires besides having people cut them deliberately. He said, for example, that the cleaning staff could have hit the wires with the vacuum cleaners; computer staff could have been working with the wires; movers could have hit them, or wires could have been disconnected for a long period and not removed.

[51]The OA telephone services coordinator said the EOP had no documentation regarding the number of telephone and computer lines that were in this office at the end of the Clinton administration. In February 2002, this official counted 14 telephone, computer, and fax lines in the main room of this office suite, which was then occupied by several people. At the end of the Clinton administration, two people occupied these two rooms.

The former chief of staff of an office where two EOP staff told us they observed 9 to 11 missing labels identifying the telephone numbers said she was aware that six telephones in that office suite were missing labels before the transition. She said those telephones were used by interns to invite people to events and that they were used for outgoing calls only, not to receive calls. In addition, another former employee said that a telephone in a room (a reception area) in an office where EOP staff told us they observed missing labels identifying the telephone numbers was missing such a label before the transition. She said that, while she worked there, the office staff did not know the number for that telephone.[52] She also said that the telephone was used only by visitors for outgoing calls. A former employee who also worked in that office suite said that other telephones in the office suite were missing labels before the transition, but he did not know how many were missing.

Another former employee who worked in another office where two EOP staff told us they observed missing telephone labels[53] said that her telephone did not have a label identifying the number when she started working there in 1997, and that someone told her what her telephone number was. The former director of another office, where an EOP official told us he observed missing telephone labels, said that staff sometimes moved to other desks and took their telephone numbers with them. The deputy assistant to the president for management and administration during the Clinton administration said that he did not know why labels identifying the telephone numbers were missing. He noted that the label for his telephone was missing when he started working in the White House complex in 1997.

The former manager of an office where an EOP employee told us he observed telephones that were unplugged said that he was not aware of anyone in that office unplugging them. A former employee in another office where EOP staff told us they observed telephones that were piled up said that there were extra telephones in that office that did not work and had never been discarded.

[52]This former employee said that a telephone in her office was also missing a label when she worked there. No Bush administration staff said they observed missing labels in that room during the transition.

[53]One of the two EOP staff who made this observation said that all of the labels were missing from telephones in this office.

The former senior advisor for presidential transition said that, during transition meetings, EOP staff discussed a plan to erase the voice mail greetings on all of the telephones during the transition. He provided a typewritten copy of notes regarding an April 28, 2000, transition team meeting indicating "telephones—mass clearing." However, he said that given the reports of inappropriate voice mail messages found at the beginning of the new administration, the plan apparently had not been carried out. He also said that it would have been technically possible to erase voice mail greetings for most departing EOP staff without also deleting the greetings for staff who did not leave at the end of the administration.[54] In January 2002, he provided us with his telephone number in the White House complex during the Clinton administration; when we called it, his voice mail greeting could still be heard.[55] This former official also said that some telephones were forwarded to other numbers for business purposes at the end of the Clinton administration. He said, for example, that some of the remaining staff forwarded their calls to locations where they could be reached when no one was available to handle their calls at their former offices.

A former employee who worked in an office where three EOP staff told us they heard a prank voice mail greeting said that on his last day of work at the end of the administration, he left a voice mail greeting on his telephone indicating that he would be out of the office for the next 4 years due to a decision by the Supreme Court, and he provided his home telephone number. He said that he presumed that the message would be erased the day after he left because he would no longer be employed there. He also said that departing staff were told that they would not be able to access voice mail after they left, but could not recall who told him that or how it was communicated to him (verbally or by E-mail). This former employee said that he left the message in "good humor."

The former manager of the office where two EOP officials told us they observed a secure telephone with the key left in it said that the telephone had not been used for 4 years and was not active.

[54]As noted earlier, the OA telephone services coordinator said that voice mail messages and greetings were not removed at the end of the Clinton administration because the EOP had not yet done an equipment upgrade.

[55]The OA telephone services coordinator said in February 2002 that this voice mail greeting was attached to a telephone number, but not an actual telephone, and that the greeting recently had been deleted.

Fax Machines, Printers, and Copiers

The June 2001 list indicated that "[s]ix fax machines were moved to areas other than the ones in which they had been installed, making them inoperable."

Observations of EOP Staff and Related Documentation

One EOP official told us that he had seen 12 fax machines with the telephone lines switched and another fax machine that was disconnected. Another EOP official said that he also observed some fax machines that were swapped between rooms. Three EOP staff said that they observed a total of 5 copy machines, fax machines, and printers that did not work. Two EOP staff said they observed fax machines moved to areas where they did not appear to belong, including some in the middle of a room, unplugged. An EOP employee who helped prepare the offices for new staff said that the serial numbers for 5 to 7 copy and fax machines and 10 printers were marked out or removed, and that without the serial numbers, he was unable to determine whether the machines were subject to maintenance agreements. He also said that no one knew the access codes needed for some copy machines. Another employee said that a printer and fax machine had been emptied of paper.

The EOP provided a copy of a log of broken copy and fax machines for the period from January 29, 2001, to February 28, 2001. The log indicated 18 instances of problems with copiers, such as paper jamming, feeder not working, and printing crooked during this period; and 19 instances of fax machine problems, including not being able to send or receive and a request for service that had not been completed the previous week. One of the items on the log was to repair a copy machine in an office where an EOP employee said that the copy and fax machines and printer did not work, although he said that he did not believe that they were not working because of something intentional. It was not possible to ascertain when the copier and fax machines in the log were broken and whether they were broken intentionally, and if so, who was responsible.

Costs

We did not request cost information associated with preparing these fax machines, printers, and copy machines for use by the new staff.

Comments by Former Clinton Administration Staff

The former director of an office where an EOP official told us that fax machines were swapped between rooms said that a fax machine may have

been pulled around a corner, but it was not done as a prank. Regarding a statement by an EOP employee that no one knew the access codes needed for some copy machines, the former senior advisor for presidential transition said he did not believe that any copy machines in the White House complex had access codes.

Trash and Related Observations

The June 2001 list indicated that "[o]ffices were left in a state of general trashing," including contents of drawers dumped on the floor, desk top glass smashed and on the floor,[56] and refrigerators unplugged with spoiled food. In addition, the list indicated that only 20 percent of the offices could be made available to incoming staff late in the afternoon of January 20.

Observations of EOP and GSA Staff and Related Documentation

Twenty-two EOP staff and 1 GSA employee told us that they observed offices that were messy, disheveled, or dirty or contained trash or personal items left behind in specific rooms or offices.[57] In addition, 6 EOP staff and 4 GSA staff said they observed office space in this condition on specific floors of the EEOB but could not recall the specific room or office. Nine additional EOP staff and 2 GSA staff said that they observed office space in this condition, but they could not recall any locations. (These could be the same observations made by EOP staff in specific rooms or offices.) Included among these observations were EOP staff who described the office space as being "extremely filthy" or "trashed out," and that a certain room contained "a malodorous stench" or looked like there had been a party. GSA's director of the White House service center also said that numerous unopened liquor and wine bottles were found.

GSA facility requests requesting cleaning in offices where observations were made included the following:

- A January 30, 2001, GSA facility request form documented a request to clean carpet, furniture, and drapes and to patch and paint walls and moldings in an office that an EOP employee said was "trashed out,"

[56]The observations regarding broken glass tops are discussed in the furniture section.

[57]This included one EOP employee who said that in an office in the West Wing, she saw a basketball hoop on a wall and champagne bottles in a fireplace, and that it looked like there had been a party. Another EOP employee told us that she saw empty cans of "Texas Trash," a nut mix, in the West Wing.

including the carpet, furniture, and walls, and had three to four "sizable" holes in a wall. The facility request was made by the EOP employee who told us about this observation.

- Another January 30, 2001, GSA facility request form documented a request to clean carpet, furniture, and drapes in a different office that an EOP employee said was filthy and contained worn and dirty furniture.

- January 25, 2001, and February 17, 2001, GSA facility request forms documented requests to clean carpet, furniture, and drapes in a suite of offices that an EOP employee told us was "extremely trashed" and smelled bad. The facility requests were made by the EOP employee who told us about this observation.

We interviewed 23 GSA staff who cleaned the offices during the transition and 4 GSA team leaders.[58] None of the 23 cleaning staff said they observed any damage, vandalism, or pranks. Two of the cleaning staff said that they saw personal items left behind, such as books and an eyeglasses case; 2 employees said that they observed a lot of trash; 1 employee said that he saw empty desk drawers on tables; and 1 employee said that she saw discarded unused office supplies. Three of the 4 team leaders, who were responsible for different floors of the EEOB, said they did not observe any damage.[59] Three of the team leaders said that they saw personal items left behind, such as unopened beer and wine bottles, a blanket, shoes, and a T-shirt with a picture of a tongue sticking out on it draped over a chair. One team leader said that the space on the floor of the EEOB where she worked was "extremely filthy," and another leader said that trash was piled up because there were not enough dumpsters to handle all of the trash.[60]

[58]These were staff who worked during the first shift starting on January 20.

[59]One of the team leaders observed "W" keys glued to a wall.

[60]These team leaders' observations are included in the total of four GSA staff who observed excessive trash or personal items on certain floors of the EEOB.

EOP and GSA staff also provided specific examples of their observations regarding the condition of the office space. Four EOP staff (4 different employees for each of the following observations) said they saw food left in refrigerators[61] and that the furniture, carpet, or drapes in their offices were dirty. Three EOP staff (3 different employees for each of the following observations) said they saw holes or unpainted areas of walls where items had been removed and a key broken off in a door leading to a balcony.[62] Two EOP staff and 1 GSA employee said they saw drawers pulled out of desks. Two EOP staff (2 different employees for each of the following) said they saw the contents of desk drawers or filing cabinets dumped on the floor in two offices; pencil sharpener shavings on the floor of two offices; and paper hole punches arranged on a floor to spell a word. Either one EOP or GSA employee said he or she saw the following: an unplugged refrigerator, a plant turned upside down, a room without lightbulbs, a broken safe lock, and a bolt missing from a lock on the door to the outside.[63]

The director of GSA's White House service center during the transition said that most of the cleaning began at about 7:00 a.m. or 8:00 a.m. on January 20 after OA provided a list of offices to be cleaned.[64] He said that OA authorized GSA to clean only a few offices before January 20 and that the cleaning was completed by the morning of Monday, January 22. The OA director said that the offices were in "pretty good shape" by the evening of January 22. Of the 23 EOP and GSA staff who said they saw offices that

[61]A GSA facility request documented a request to clean a refrigerator in a certain office. Two of the four EOP staff who said they observed food left in refrigerators could not recall where they saw the food, so the GSA facility request could corroborate those observations.

[62]All three staff referred to the same door.

[63]This was an office that had a door to the outside that was no longer used.

[64]The chief of staff to the president said that he toured the first floor of the EEOB during the afternoon of January 20, 2001, entered several offices, and did not see any cleaning crews. Further, as explained later, in January 2002, two former Clinton administration officials wrote us a letter indicating that they had not seen any cleaning crews during the night of January 19 or the morning of January 20. As a result, we asked GSA to contact the four former cleaning crew leaders about when they started cleaning offices during the transition. Two of the crew leaders said that they began cleaning the offices around 8:00 a.m. or 8:30 a.m. on January 20. Another former crew leader said that she began cleaning offices at 6:45 a.m. on January 20. The other former crew leader was no longer employed at GSA when we inquired about this in March 2002. The time cards for the four crew leaders did not indicate what time they started working on January 20, but indicated that one leader worked 8 hours, another worked 14 hours, and two worked 16 hours that day.

were messy, disheveled, or dirty or contained trash or personal items left behind in specific rooms or offices, 13 staff made these observations on January 20 and 21; the remaining 10 staff made these observations on or after January 22.

The OA associate director for facilities management said that there were "not a lot" of offices that could have been cleaned before January 20, and that maybe 20 such offices were on a list that was given to GSA. He also said that it took 3 to 4 days after January 20 to complete the cleaning. He said that there was more to clean during the 2001 transition than during previous transitions because (1) more staff were working in White House office space during the Clinton administration compared with previous administrations, (2) many people were messier than they should have been, and (3) it was more difficult to do routine cleaning in some offices because of their condition. This official said the amount of trash he saw was "beyond the norm" and that he observed a limited amount of "trashing" of offices. He also said that it would have taken an "astronomical" amount of resources to have cleaned all of the offices by Monday, January 22. In his opinion, he said that departing staff should have left their offices in a condition so that only vacuuming and dusting would have been needed.

A White House management office employee who said that he went into almost all of the offices on three floors of the EEOB and part of another floor said that he observed trash "everywhere" on January 21. He said that what he observed was probably a combination of some trash having been dumped intentionally and an accumulation built up over the years. Another employee said that an office that he saw looked like someone had deliberately left a mess, and that it appeared that someone was sending a message that they were going to make a mess for everyone. For example, he said that desk drawers were dumped out, lamps were on chairs, pictures taken down from the walls, and the door was jammed with pictures leaning against it so that the door could not be easily opened. Further, the OA director said that it looked as if a large number of people had "deliberately trashed the place," which he considered to be vandalism.

The EOP also provided seven photographs of two or three offices in the EEOB taken on January 21, 2001, because, according to an associate counsel to the president, they were possibly responsive to our request for any record of damage that may have been caused deliberately by former Clinton administration staff. These photographs showed piles of empty binders and other office supplies left on the floor, empty filing trays stacked on a sofa, an empty styrofoam coffee cup on a desk, a desk pad

with writing on it, a box of empty bottles left under a desk, a Christmas wreath on a table, a string of Christmas lights on a wall, Easter decorations, and three soda cans on a shelf.

Costs

A GSA facility request form indicated that $1,150 was spent on professional cleaning services in a suite of offices that included a room that an EOP employee said was "extremely trashed" and smelled bad. We did not attempt to determine the costs associated with any additional cleaning effort that may have been needed as a result of excessive trash that needed to be discarded.

Comments by Former Clinton Administration Staff

Former Clinton administration staff generally said the amount of trash that EOP and GSA staff said they observed during the transition was what could be expected when staff move out of office space after 8 years; many staff were working up to the end of the administration and moved out at the last minute; staff worked long hours in their offices, often eating meals at their desks; certain offices were messy throughout the administration and not only at the end of the administration; trash cans and dumpsters were full, so trash was placed next to them; and that staff expected GSA to clean their offices after they left.

Regarding the observations by some EOP staff who said that excessive trash had been intentionally left in vacated offices, none of the 67 former Clinton administration staff we interviewed who worked in the White House complex at the end of the administration said that trash was left behind intentionally as a prank or act of vandalism. One former employee who worked in an administrative office said that she did not observe much cleaning of offices before January 20, and she believed that GSA did not have enough supervisors and decision makers to oversee the cleaning. A former administrative head of another office that no one said was left dirty said that he had asked 25 professional staff to help clean the office before they left.

In a letter sent to us in January 2002, the former deputy assistant to the president for management and administration and the former senior advisor for presidential transition said that, for months before the transition, they had been assured that additional cleaning crews would be detailed to the White House complex to assist GSA cleaning crews during the final week of the administration. However, the former officials said

that they did not observe any cleaning crews during the evening of January 19 or the morning of January 20.[65]

Regarding files that an EOP official told us he observed dumped on a floor in another office during the afternoon of January 20, the former senior advisor for presidential transition said that he was in that office after 11:00 a.m. on January 20, and he did not see any files on the floor.[66] The former director of that office also said that files could not have been found dumped on the floor on January 20 because they were archived before he left on January 19.

A former official in an office where an EOP employee told us she observed dirty carpet said that, except for one room in the office suite, no money had been available for carpet cleaning throughout the administration.

A former employee of an office where three EOP staff told us they observed a key to a door to a balcony broken off in the lock said that only the Secret Service had a key to that door. The office manager for the office where an EOP employee told us it appeared that a pencil sharpener was thrown against the wall and that pencil shavings were on the floor said the sharpener in that office did not work and may have been placed on the floor with other items to be removed. Regarding things that appeared to have been "ripped" from walls that an EOP employee told us about, a former employee said the room had not been painted for years, and items had been put up and removed from that office several times. In addition, the former director of an office, where an EOP employee told us he observed paint missing from the walls, said that when the office was painted about a year before the transition there were air bubbles in the paint that turned into cracks and peeled.

[65]As noted previously, the director of GSA's White House service center said that the cleaning began at about 7:00 a.m. or 8:00 a.m. on January 20, 2001. In a follow-up interview, the former senior advisor for presidential transition said that two OA officials had provided the assurance that additional cleaning crews would be detailed to the White House during the final week of the administration.

[66]A NARA official said that she went to various offices in the EEOB with the former senior advisor for presidential transition around 11:00 a.m. on January 20, checking to see whether presidential materials had been obtained from computers. This NARA official said that she did not remember the specific rooms where she went that morning, but she did not see any evidence of damage, vandalism, or pranks.

The former director of another office where an EOP employee told us she observed a broken safe lock said that it had not worked correctly for some time. The former occupant of an office, which an EOP employee told us contained an odor when he started working there, said that his former office had smelled bad since he started working there in 1999. He said the office smelled moldy every time it rained, and he believed that water seeped into his office from a balcony. In addition, regarding another office that an EOP employee told us smelled bad,[67] the former occupant of that office said that he did not smoke in his office.

Regarding the photographs of messy offices that the EOP provided of offices during the transition, the former senior advisor for presidential transition said the photographs showed trash, but they did not show evidence of vandalism.

Writing on Walls and Prank Signs

The June 2001 list indicated that "[w]riting on the walls (graffiti) in six offices" was found.

Observations of EOP and GSA Staff

Six EOP staff said that they observed writing on the wall of a stall in a men's restroom that was derogatory to President Bush. In addition, two EOP staff and one GSA employee said that they observed messages written on an office wall.[68] Two of those three employees said that the writing they observed in that office was on a writing board that could be erased. Two other EOP employees said that they saw pen and pencil marks on the walls of two offices, but no written words. This included one employee who said that it looked like there were cracks in the paint, but because the marks washed off, he thought it looked like someone had used a pencil on the wall.

[67]This was a room that was part of a suite of offices where an EOP employee requested professional cleaning of carpet, furniture, and drapes. A February 17, 2001, GSA facility request documented this employee's request. This EOP employee originally told us that the office smelled like cigars. In a follow-up interview, this employee did not say that the office smelled like cigars, but that it "smelled bad" perhaps because it was in an old building.

[68]The two EOP staff recalled the specific room number where they saw writing on the wall. The GSA employee did not remember the room number, but she said that she saw the writing on the same floor where the EOP staff saw the writing. According to these employees, the content of the writing was not profane in nature.

Twenty-nine EOP staff said that they observed a total of 25 to 26 prank signs, printed materials, stickers, or written messages that were affixed to walls or desks; placed in copiers, printers, desks, and cabinets; or placed on the floor in specific rooms or offices, and that there were multiple copies of these in some locations.[69] The observers said these materials were generally uncomplimentary pictures or messages about President Bush or jokes about the names of certain offices. Six EOP staff said they saw a total of four messages that they said contained obscene words; three of the messages were observed in the same location. No one told us the pictures that they observed were obscene.

Three other EOP staff and two GSA staff said that they observed a total of eight to nine prank messages and materials on certain floors of the EEOB, but they could not recall the specific rooms or offices. The messages and materials that were observed on certain floors, but not identified by specific office or room, could be the same as those that were observed in specific locations.

In June and November 2001, EOP staff provided copies of 2 prank signs that were found during the transition, which were derogatory jokes about the president and vice president. In August and September 2001, we were also shown a roll of political stickers that were left behind and 2 stickers affixed to a file cabinet and desk containing derogatory statements about the president.

Costs

We did not request cost information associated with removing writing on walls and removing prank signs, stickers, and other written messages from the office space because we did not believe that such costs would be readily available.

Comments by Former Clinton Administration Staff

Thirteen former Clinton administration staff said they saw a total of 10 to 27 prank signs in the corridors of the EEOB.[70] One of those former

[69]Eight EOP staff observed prank pictures or a sticker in the West Wing. One EOP employee said she saw a prank picture in the East Wing.

[70]One of those employees also said that he found three to four Gore campaign signs and took them down. Another former employee said that she saw writing on a writing board that could be erased.

employees, who saw 2 signs, said she could not recall their content, but said they were "harmless jokes."

Office Supplies

The June 2001 list indicated that "six to eight 14-foot trucks were needed to recover new and usable supplies that had been thrown away."

Observations of EOP and GSA Staff

The OA associate director for the general services division, who is responsible for office supplies, said that about eight truckloads of excessed items were brought to an EOP warehouse where they were sorted into usable and nonusable materials. He said that departing staff brought excess office supplies to a room in the basement of the EEOB, which eventually became overloaded, and supplies were left in the hallway. However, he was not aware of any usable supplies being discarded.

One EOP employee and one GSA employee said they saw supplies that were thrown away, but no one said that trucks were needed to recover supplies that had been thrown away. Another EOP employee said that there were no office supplies in her office when she started working in the EEOB.

Costs

We did not obtain cost information concerning the value of office supplies that may have been thrown away because the statement that six to eight 14-foot trucks were needed to recover new and usable supplies that had been thrown away generally was not corroborated.

Comments by Former Clinton Administration Staff

The former deputy assistant to the president for management and administration said that departing staff were instructed at the end of the administration to recycle usable office supplies by bringing them to the basement of the EEOB. The former senior advisor for presidential transition said that office supplies were brought to that room so that staff could obtain them from there, rather than obtaining them from the supply center. A former EOP employee said that the room where the supplies were taken became overloaded at the end of the administration. A former office manager said that staff received E-mails indicating that any office supplies that were left in their offices would be thrown away.

Additional Observations Not on the June 2001 List

The OA associate director for facilities management said that he found a secure employee identification and two-way radios that were left in an office and not turned into WHCA. Another EOP employee said that he observed materials that were not returned to the White House library. A GSA employee said that she observed a few classified documents left unsecured in closets and the telephone service director said that he found classified documents in an unlocked safe.[71] Another EOP employee said that he found sensitive documents in a room. No costs were associated with these additional observations.

Regarding two-way radios that an EOP official said were left in an office and not turned into WHCA, the director of operations support at WHCA, which handles such equipment, said that the agency had no record of having provided two-way radios to the office where they were observed. The official said that this type of equipment is typically picked up from offices by WHCA at the end of an administration, but because the agency had no record of having provided equipment to that office, it was apparently left there.

Comments by Former Clinton Administration Staff

The former manager of the office where an EOP official told us he observed two-way radios left and not turned into WHCA said it was possible that they were not turned into that office.

[71]The locations were not identified. The director of records management said that he went into every office on two floors of the EEOB during the night of January 19 checking for documents and did not find any classified documents.

Observations Concerning the White House Office Space During Previous Presidential Transitions

We attempted to determine how the condition of the White House office space during the 2001 presidential transition compared with the conditions during previous recent transitions by interviewing 14 Executive Office of the President (EOP) staff, 2 General Services Administration (GSA) staff, 19 former Clinton administration staff, and a National Archives and Records Administration (NARA) official about their recollections of damage, vandalism, or pranks during previous transitions. In addition, we reviewed news media reports to identify any reported damage, vandalism, or pranks during the 1993, 1989, and 1981 transitions.

Observations of EOP, GSA, and NARA Staff During Previous Transitions

Five EOP staff told us they observed damage, vandalism, or pranks in the White House complex when they worked there during past transitions. Regarding the 1993 transition, an EOP employee said that she observed five desks containing prank pictures of former Vice President Gore with written messages on them and a banner on a balcony. In addition, two EOP staff (a different employee for each of the following observations) said he or she observed 1 to 2 poster-sized signs, and 5 to 10 missing office signs. Another EOP employee showed us writing inside a desk that was dated January 1993.

Seven EOP staff who had worked in the White House complex during previous transitions made observations comparing the condition of the office space in 2001 to previous transitions; six said that the condition was worse in 2001 than previous transitions and one said that the office space was messier in 1993 than 2001. The director of the Office of Administration (OA), who had been present during five previous transitions, said that he was "stunned" by what he saw during the 2001 transition and had not seen anything similar during previous ones, particularly in terms of the amount of trash. The OA associate director for facilities management said that there was more to clean during the 2001 transition than during previous transitions.[72] The telephone service director, who had worked in the White House complex since 1973, said that he did not recall seeing, in past transitions, the large amount of trash that he had seen during the 2001 transition. Further, an employee who had worked in the White House complex since 1984 said that office space in the complex was messier during the 2001 transition than all of the other transitions he had seen.

[72]See appendix I for the reasons that this official believed that there was more to clean during the 2001 transition, compared to past transitions.

The chief of staff to the president, who was in charge of the 1993 transition for the George H. W. Bush administration, said that he saw nothing comparable during prior transitions to what he saw during the 2001 transition. (He said that he saw during the 2001 transition, among other things, overturned furniture, prank signs, keyboards with missing "W" keys, and trash and telephones on the floors of vacated offices.) The director of records management, who had worked in the White House complex since 1969 said that, over time, he noticed that more personal items have been left behind by departing staff. The OA senior preservation and facilities officer, who had worked for the EOP since 1978, said she observed some evidence of vandalism or pranks during the 2001 transition, but had not seen any damage, vandalism, or pranks during previous transitions. However, a facilities employee who said that she was responsible for overseeing the custodial staff in the Eisenhower Executive Office Building (EEOB) during the 2001 transition and was involved in the cleanup effort in the EEOB during the 1993 transition said that she believed more trash was left in the building during the 1993 transition than the 2001 transition. She said that she found papers "all over the floor" and the remnants of a party during the 1993 transition.

The OA associate director for facilities management said that every transition has had a problem with missing historic doorknobs. The telephone service director said that telephone cords were unplugged and office signs were missing in previous transitions and that unplugging telephones is a "standard prank."

The director of GSA's White House service center during the 2001 transition said that the condition of the office space during the 2001 transition was the same as what he observed during the 1989 transition. (He said that he observed little during the 2001 transition in terms of damage, vandalism, or pranks.) Similarly, a GSA employee who was one of the cleaning crew leaders during the 2001 transition and was the EEOB building manager when we interviewed him in July 2001, said that he had not seen any damage or pranks during any transition during his 31 years of working in the White House complex. He said there was an excessive amount of trash during the 2001 transition, but that was not unusual for a transition. Further, in a March 2, 2001, letter to Representative Barr on this matter, the acting administrator of GSA said, regarding the condition of the White House complex during the 2001 transition, that "[t]he condition of the real property was consistent with what we would expect to encounter when tenants vacate office space after an extended occupancy with limited cyclical maintenance, such as painting and carpet replacement." (Real

property includes the physical structure of the building and not items such as telephones, computers, and furniture.)

NARA's director of presidential materials said that she was in the White House complex during the 1993 and 2001 transitions and that she went into about 20 offices in the EEOB during the morning of January 20, 2001. She said that she saw a lot of trash in the EEOB during the 2001 transition, but that it was no more than what she observed during the 1993 transition. She said that she did not see any damage, vandalism, or pranks during the 1993 or 2001 transitions.

Observations of Former Clinton Administration Staff Regarding the 1993 Transition

Regarding the 1993 transition, five former employees told us they observed furniture in hallways, piled up, or in places it did not appear to belong. One of those former employees also said there was no furniture in an office. One former employee (a different former employee for each of the following observations) said he or she observed each of the following: a person's initials carved into the front of the middle drawer of her desk, words carved into two additional desks (a former employee said one of the carved words was an obscenity; the person who observed the other carving in a desk said it was the name of the vice president during the George H. W. Bush administration), and broken chairs.

Seven former employees also said that computers were not operational or were missing hard drives at the beginning of the Clinton administration. Two of those employees said that it took 1 to 2 weeks for the computers to work.[73] Two former employees said that telephones were piled on the floors or were disconnected. (One of those former employees said she was told that staff would receive new telephones.)[74] Another former employee said that she saw telephone lines pulled out of walls and that they appeared to have been pulled out intentionally.

One former employee who started working in the White House complex in January 1993 and left in January 2001 said that the offices were messier in

[73]In *Armstrong v. Bush*, 807 F. Supp. 816 (D.D.C., 1992), the United States District Court for the District of Columbia issued a temporary restraining order requiring personnel of the first Bush administration to preserve backup tapes generated for certain EOP electronic systems.

[74]The telephone service director said that the EOP received a new telephone system during the Clinton administration.

January 1993 compared with January 2001. Another former employee said that on January 20, 1993, his office contained leftover food and that the walls needed repainting. A third former employee said the offices were still not cleaned by the afternoon of January 21, 1993. Another former employee said that there were "dusty and dirty" typewriters on desks.

Three former staff said they saw a total of at least six Bush bumper stickers in different offices, on cubicle walls, in a desk, and on a telephone. One former employee said she saw one to two photocopies of political cartoons left in a copy machine, a medicine bottle with a prank note inside a desk, a banner on the balcony of the EEOB, and a tent tarp.

Three former Clinton administration staff said that there were no office supplies when they started working in the White House complex in January 1993.

News Report Regarding the Condition of White House Complex during Previous Transitions

We searched major newspapers and selected magazines for any news reports regarding the condition of the White House office space during the 1981, 1989, or 1993 presidential transitions and found only one such mention. The March 1981 issue of *Washingtonian* magazine indicated that incoming Reagan administration staff had some complaints about the condition of the EEOB that were similar to observations made by EOP staff in 2001. According to the article, a visitor described the EEOB as being "trashed," and indicated that memorandums taped to walls, lampshades torn by paper clips hung on them to hold messages, a refrigerator with thick mold, and a large coffee stain on a sofa outside the vice president's office were found.

Procedures for Vacating Office Space

According to former Clinton administration and General Services Administration (GSA) officials, departing Executive Office of the President (EOP) staff at the end of the Clinton administration were required to follow a check-out process that involved obtaining written approval in 21 categories, including the return of library materials, government cellular telephones, pagers, and building passes. The form indicated that the employee's final paycheck and/or lump sum leave payment could not be issued until he or she had completed the form and returned it to the White House director of personnel.[75] However, the check-out process did not include an office inspection, including an inspection of the physical condition of the office, equipment, or furniture.

We asked former Clinton administration officials what instructions were provided to departing staff regarding vacating their offices at the end of the administration. We were provided with a January 4, 2001, memorandum sent by President Clinton's chief of staff to the office heads of the White House Office and the Office of Policy Development that encouraged staff to check out by the close of business on January 12, 2001, unless there was an operational need to be on the premises until January 19.[76] However, this memorandum did not indicate in what condition the office space should be left or how office supplies should be handled, nor did it provide any warning about penalties for vandalism. Provisions of 18 U.S.C. 1361 provide for the punishment of anyone who willfully commits or attempts to commit damage to U.S. government property. If the damage to government property exceeds $1,000, the crime is treated as a felony; if the damage does not exceed $1,000, the crime is a misdemeanor.

We contacted congressional personnel to ask what procedures are followed regarding offices on Capitol Hill that are vacated by members of Congress and their staff. They included staff from the Office of the Chief Administrative Officer, House of Representatives; Office of Customer Relations; Office of the Senate Sergeant-at-Arms; and Office of the Building

[75]We did not review whether this check-out process was followed by all departing Clinton administration staff.

[76]The EOP provided us with records indicating on what day building passes were terminated for departing staff in January 2001, but also indicated that this information was not reliable, so it was not known when former Clinton administration staff left at the end of the administration. Forty-three of the 71 check-out forms for former staff from one office (which we had obtained to check the return of cellular telephones) indicated that their building passes were turned in on January 19 or 20, 2001. However, this office's staff may not necessarily be representative of when all former Clinton administration staff left.

Superintendent, Office of the Architect of the Capitol. The staff said that House and Senate offices are inspected when members vacate their space, and they are held personally liable for any damaged or missing equipment. They also said that former members of both the House and Senate have been charged for this reason. Further, we were informed that furniture is inspected in House members' district offices. In addition, we note that landlords of privately owned office space and apartments routinely inspect the vacated space when tenants leave, and they charge for any damages.

Comments from the White House

THE WHITE HOUSE

WASHINGTON

May 31, 2002

The Honorable David M. Walker
Comptroller General of the United States
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Walker:

On May 13, 2002, I provided you with my office's comments on the May 3, 2002 draft of the General Accounting Office's report on vandalism, damage, and pranks that occurred in the White House complex during the 2001 presidential transition. Enclosed are a revised draft of those comments in which the names of individuals who provided information during the GAO's investigation have been removed, and certain conforming changes made. Please use this draft in preparing the comments for publication together with the final version of the GAO report.

In addition, I wish to address a matter which has been discussed between our respective staffs. We understand that you propose to redact in the published version of our comments a specific reference to a matter that GAO considers "inappropriate" for publication by the GAO. Specifically, as I understand it, this redaction would cover portions of a sign of a mock *Time* magazine cover (p. 9 of our May 13 comments and pp. 10 and 70 of our May 31 comments). For the following reasons, I strongly disagree with GAO's proposal to redact some of this material (or any other portion of our comments).

First, as we have repeatedly stated in our comments on the draft report, we believe it is vital to include the substance of specific graffiti, messages and signs observed in the White House complex if the report is to achieve the objective set for the GAO by Congressman Barr: to "*fully document* the reported examples of vandalism" during the transition. While we agree that the statement itself is not "appropriate", particularly when affixed to government property, and while we certainly do not wish to propagate such statements, those considerations are outweighed here by the clear relevance of the content of the statement to the objectives of the GAO's inquiry. Indeed, to the extent that this specific message is especially offensive or vulgar, it may be *more* relevant to the inquiry because, among other things,

- the content of a message can –and often does – indicate who wrote the message, and when. We think it unlikely that a reader would attribute the message in question to members of the incoming Administration, for example.

- the content often provides an insight into the mindset or intention of the person who wrote it. This is important because it allows the reader to determine for himself whether some of the statements found in the White House complex were "harmless jokes" or "goodwill messages", as former Clinton Administration officials now claim. (See May 3 Report at 10 and 17).

- the content of the message allows the reader to assess whether the GAO's characterization of the observations is fair and objective. For instance, in the May 3 draft report, the GAO describes a particular message as "*arguably* derogatory to the President." That message reads, "jail to the

Now on pp. 8 and 14.

thief." Because the report does not reveal the content of the message, readers have no way of knowing whether the GAO's characterization of it as "arguably" derogatory is accurate.

We raised these (and other) considerations in our May 13 comments in the hope the GAO would recognize the deficiencies in the current draft and revise accordingly. While we have not seen the final report to be published, we are disappointed to learn that apparently not only has the GAO *not* revised the report as we suggested (at least with respect to this comment), but in fact it proposes to redact *our comments,* which will effectively prevent the reader from having the necessary information about this particular matter to judge for themselves.

Second, we do not agree with the suggestion that by publishing our comments, GAO as an institution will be tainted or associated in some way with the offensive matters they report -- any more than the White House itself has been tainted by the offensive material discovered during the transition. Any such taint reflects only on the individuals who created the material, not those who discover and report it.

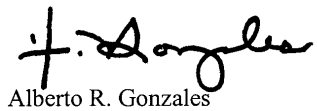
Third, although the President and the Administration had no interest – and have no interest – in dwelling upon what happened in the 2001 transition, we have cooperated fully in the GAO investigation and we believe that if there is to be a report, it is incumbent upon us to ensure through our published comments that the facts are accurately and fully reported. Whatever changes the GAO may or may not choose to make in the final report in light of our comments, those comments are a separate document for which we are solely responsible and over which we must exercise sole control.

Finally, I note that the suggestion made by your staff that the GAO would provide the substance of the redacted material to persons who make specific inquiry after reviewing the published comments, is not sufficient in our view to address these concerns. The published version of the report and accompanying published comments will be the definitive public documents for current and historical purposes, and will reach a much broader audience than any information made available to those who specifically request it.

We also understand that GAO intends to publish a response to our comments as an appendix to its final report. This is inconsistent with all previous representations regarding the GAO process, and we are disappointed that we will not have an opportunity to consider or reply to GAO's responses to our comments prior to publication of the final report.

If you have any questions about the enclosed comments, or wish to discuss these matters further, please do not hesitate to contact me or Associate Counsel Jennifer Newstead at 202-456-1984.

Sincerely,



Alberto R. Gonzales
Counsel to the President

cc: Bernard L. Ungar

COMMENTS OF THE OFFICE OF THE COUNSEL TO THE PRESIDENT
ON THE GAO'S DRAFT REPORT: "ALLEGATIONS OF DAMAGE
DURING THE 2001 PRESIDENTIAL TRANSITION" (DATED MAY 3, 2002)

The President and his Administration had no interest – and have no interest – in dwelling upon what happened during the 2001 transition. In early 2001, when the press first asked about damage found in the complex, the President said that "[i]t's time now to move forward." Members of this Administration went to great lengths to dampen public interest in the issue, hoping – as Press Secretary Ari Fleischer said at the time – "to put it all behind us" and to "focus [on] . . . just do[ing] the job that the American people elected President Bush to do." We certainly did not instigate an investigation by the General Accounting Office (GAO), nor revel at the prospect of such an inquiry. However, once the GAO agreed to undertake the investigation, we agreed to cooperate fully. We have done so. And we now believe that, if there is to be a report, it is incumbent upon us to ensure that the facts are accurately and fully reported.

With that goal in mind, and as a matter of comity between the legislative and executive branches, we provide the GAO with the following comments. We have now provided the GAO with two rounds of extensive comments on their draft. Our first round of comments were provided on April 26, 2002. Unfortunately, the GAO's revised draft, which we received on May 3, failed to address many of the concerns we had raised. Accordingly, we have now provided a second set of detailed comments on the May 3rd draft. We now understand that GAO intends to publish a response to our comments as an appendix to its final report. We are disappointed that we will not have an opportunity to consider or reply to GAO's responses to our comments prior to publication of the final report.

Part I of the comments describes some general concerns about the overall structure, content, and use of terminology in the draft report. [1] Part II offers more specific comments. And Part III addresses the GAO's proposed recommendations. In preparing these comments, we have consulted with representatives of the Office of the Vice President, the Office of Administration, the United States Secret Service, and others, on issues involving those entities or their personnel. We have also identified to the GAO the source of all factual information and statements cited herein.

Part I: General Comments

1. Failure To Report Material Facts. The GAO has not included in its draft report many facts that a reader needs, in our view, to have a complete and accurate understanding of what happened during the 2001 transition. In calling for this investigation, Congressman Barr asked the GAO to "*to fully document* the reported examples of vandalism." And section 7.51 of the Government Auditing Standards "requires that [a] report contain *all information* needed to satisfy the audit objectives [and] promote an adequate and correct understanding of the matters reported." In our view, neither Congressman Barr's directive nor the Government Auditing Standard has been met.

[1] As used in these comments, and unless otherwise noted, "draft report" or "report" refers to both the 27-page letter to Congressman Barr summarizing the GAO's findings and the report's three appendices.

For example, the GAO does not specifically identify anywhere in its report, including the appendices, each reported instance of vandalism, damage, or a prank. The GAO's omission is troubling not only because it ignores the explicit request of the sole Member of Congress who requested the investigation ("to fully document"), but also because the GAO seems willing to detail each comment made by a former staff member. Thus in many cases, the GAO has included a former staff member's comment *in response to* a particular observation without ever having discussed the observation itself. We believe that the GAO should treat observations by current staff members in the same manner it treats comments by former staff members. We also believe that the report should refer to each observation of damage individually.

The GAO also omits from its report details about *when*, *where*, and *by whom* an observation was made. *When* an incident was observed is often relevant to determining the likely perpetrator. For example, the damage, vandalism, and pranks were often observed during the night of January 19 – before the cleaning staff began cleaning offices and before members of the Bush Administration entered the complex – and thus eliminating those individuals as the possible culprits. *Where* damage was found is relevant, for example, because often more than one incident and type of damage was observed in the same location; a concentration of damage (such as that found in the Vice President's West Wing and EEOB offices) makes it less likely, in our view, that an innocent explanation exists. Finally, *who* made the observation can bear on issues of credibility; if staff who served in the White House complex during many Administrations observed the damage, as was often the case, then a reader may find the observation more credible than if a member of the incoming Bush Administration reported the same observation.

The report also does not contain the content of the graffiti, messages, and signs. We were told that the GAO thinks it is "not appropriate" to include such vulgar and disparaging statements about the President of the United States. While we agree that the statements themselves are "not appropriate," particularly when affixed to government property, and while we certainly do not wish to propagate such maledictions, we believe that including the content in the report is important for at least five reasons.

- *First*, the content of the message can – and often does – indicate who wrote the message and when.

- *Second*, the content often provides an insight into the mindset or intention of the person who wrote the message. This is important because it allows the reader to determine for himself whether the statements were "harmless jokes" or "goodwill" messages, as former Clinton Administration officials now claim (*see* Report at 10 and 17).

- *Third*, the content also allows the reader to infer that, if departing staff left a vulgar or derogatory message, those same individuals may also be responsible for other incidents that were observed near the location of the message.

- *Fourth*, the content of the messages and other details equip the reader to compare the 2001 transition and prior transitions.

Now on pp. 8 and 14.

- *Finally*, the content of the message allows the reader to assess whether the GAO's characterization of the observations is fair and objective. For instance, in its report, the GAO describes a particular message as "*arguably* derogatory to the President." Report at 10. That message reads, "jail to the thief." But because the report does not reveal the content of the statement, readers have no way of knowing whether the GAO is accurate in describing the message as "arguably derogatory." By disclosing the content of the messages and other important details about the reported observations, the GAO can best assure the objectivity of the entire report.

Because we believe these details are important, many of our comments highlight facts that the GAO omitted. These facts are undisputed. The GAO omitted them from its report, we were told, not because it has reason to doubt their truth, but because the GAO concluded that it was "not appropriate" to include this level of detail and that the facts were not "material" to the GAO's conclusions. On this, we simply disagree. By including these facts in our comments and explaining their relevance, we hope that the GAO will recognize the deficiencies in the current draft and revise the final report accordingly. If not, the facts will be in our comments for the readers to judge for themselves.

2. The "June 2001 List." Throughout the draft report, the GAO refers to a "June 2001 list." The GAO structures its report around the list and compares the staff members' observations with the content of the list. The GAO uses the list in this manner even though the Counsel to the President cautioned the GAO, in transmitting the list, that

> [t]he list is not the result of a comprehensive or systematic investigation into the issue, and should not be considered a complete record of the damage that was found. Rather, the list was prepared quickly and based on the recollections of a handful of individuals who witnessed or learned of the damage.

Further, the GAO never even asked the individuals whose names appear on the list to explain how the list was prepared, who transcribed it, what its purpose was, or what each line refers to. Nonetheless, the GAO features the list prominently in its draft report as some type of benchmark or guidepost against which the observations are measured.

Worse, the GAO often misstates the contents of the list. For instance, on page 3, the draft report states that "[i]t listed . . . *offices with a lot of trash*." In fact, the list states that "[o]ffices were left *in a state of general trashing*." (And under that heading are three bullet points that read, "Contents of drawers dumped on floor," "Desk top glass smashed and on the floor," and "Refrigerators unplugged (spoiled food).") We highlighted the GAO's error – that in today's parlance saying an office was "generally trashed" is not the same as saying it had "a lot of trash" – in our April 26 comments on the GAO's preliminary findings. But for some reason, the GAO chose to ignore us. We will continue to note this type of error in this set of comments to allow the GAO another opportunity to correct the record and, in all events, to inform the reader about what the list actually says.

3. Flawed Analysis. Rather than "fully document" each observation, the GAO generally states only "a range" of the "total" number of observations for each category of damage. While we would prefer that that GAO simply provide the underlying data, if the GAO includes these ranges, they must be correct. In our opinion, they are not. The GAO materially understates the number of observations, and its methodology for calculating the ranges, in our view, is flawed.

 Here is the problem. The GAO said that, in calculating the "total" observations, it is crediting as true each person's observation. Yet, the GAO reports a range that takes the *lowest* number of observations in an office suite and then aggregates that lowest-possible number for each suite to arrive at the low end of the range. For the high end, the GAO, by and large, adds up each observation and assumes that no observer is repeating an observation reported by anyone else. Two examples – one taken from a data table which the GAO provided to us and the other a hypothetical – illustrate the flaw in this approach.

 For purposes of the first example, let us assume that only two of the office suites from the GAO data table reported missing W keys – the Advance Office and the Communications/Media Affairs/Speechwriting Offices. For those office suites, the GAO data table shows:

Room no. or floor	No. observed[2]	No. for report (reason)
185 ½	3-4 3-4	2-8 (used range for different recollections)
Adv. (174, 185, 185½)	2 7-8	
192-198[3]	1-2	1-7 (used range for different recollections)
197	4 (observed by three persons) 1	
198	1	

 Under the GAO's methodology, and this data, the GAO would say that 10 staff members reported "a total of" 3 to 15 damaged keyboards observed in the two office suites. But that is incorrect if, as the GAO says, all observations are being treated as truthful. One person alone said that he saw 7 or 8 keyboards with missing W keys; thus it could never be the case that *a total* of only 3 keyboards was observed damaged. Assuming the GAO's data were correct, the appropriate statement would be that 10 staff members reported a total of 11 to 26 (*i.e.*, 7 to 18 in the Advance Office and 4 to 8 in Rooms 192-198); here, the range properly reflects the possibility that an observer may or may not be reporting a keyboard that was observed and reported by another.

[2] The comments in this table were, collectively, reported by 10 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

[3] The problem with the GAO's analysis is compounded by the fact that it groups offices together (*e.g.*, 192-198) that actually are three separate office suites – the Office of Media Affairs, the Office of Communications, and the Office of Speechwriting.

A simplified and hypothetical example may further clarify the point.

Room no. or floor	No. observed (observer)	No. for report (reason)
Office Suite A	1 (Washington) 25 (Adams) 100 (Jefferson)	
Office Suite B	1 (Madison) 50 (Monroe)	

Under the GAO's methodology, the number of "total" observations would be 1 to 126 for Office Suite A and 1 to 51 for Office Suite B – or a total of 2 to 177 for both offices. But that would be an absurd conclusion since three people said that they each alone observed more than 2 damaged keyboards; so unless the GAO is going to simply ignore their observations, or find them not credible, the total must reflect what they said. Therefore a proper range would be 100 to 126 for Office Suite A and 50 to 51 for Office Suite B, or a combined total of 150 to 177.

It appears that this flaw in the GAO's methodology infects each of the ranges presented in the GAO report. It also appears that some of the data is inaccurate in the data tables that the GAO has provided. Without being provided copies of all of the data tables for each category of damage, we cannot know – and hence cannot comment specifically on – the factual accuracy of all data, nor on how each range was calculated. Where the GAO has provided copies of the data table or has described the underlying data to us, we provide specific comments below.

4. Use of the Term "Executive Office of the President." Throughout the draft report, the GAO refers to organizational units that are housed within the White House complex – such as the White House Office (WHO), the Office of the Vice President (OVP), or the Office of Administration (OA) – individually and collectively, as the "Executive Office of the President" or "EOP." As we explained to the GAO in our April 26 comments, it is not accurate to refer to each unit individually or all units collectively as the Executive Office of the President. In this context, the term is both under- and over-inclusive. It is under-inclusive because not all offices in the complex fall within the EOP umbrella. And it is over-inclusive to the extent that it covers units that the GAO did not investigate. Thus, for example, it is not accurate to say, as the GAO does, that it "asked EOP" for information (Report at 1). The GAO is also inaccurate when it refers to the EOP units as "agencies." Report at 3 n.2, 4. They are not.

Now on p. 4.

We therefore again recommend that the GAO state specifically the unit being referring to – whether it be the WHO, the OVP, the OA, the NSC, etc.

5. Effort To Downplay the Damage Found in the White House Complex. It appears that the GAO has undertaken a concerted effort in its report to downplay the damage found in the White House complex. The following facts lead us to that conclusion:

- the GAO omits from its report a reference to each reported instance of vandalism, damage, or a prank;
- the GAO underreports the number of observations for nearly every category of damage;
- the GAO omits from its report any mention of several individuals (all but two of whom served during the Clinton Administration) who told the GAO that the damage found during this transition was worse than prior transitions;
- the GAO ignores documents that show requests were made to repair telephone damage and clean offices;
- the GAO fails to quantify or estimate certain real costs incurred to remedy or repair the damage;
- the GAO fails to report the content of the graffiti and signs that were found in the complex; and
- the GAO is unwilling to conclude that the vandalism, damage, and pranks were intentional, even where the circumstances plainly indicate that they were (*e.g.*, damaged W keys, graffiti and signs disparaging the President and the incoming Administration, damaged furniture that contained anti-Bush statements, more than 100 missing phone labels, vulgar and inappropriate voicemail greetings, etc.).

Part II: Specific Comments

Now on p. 2.

1. **PAGES 2-3.** The GAO misstates the contents of the June 2001 list:

 - The GAO says that the list "listed . . . offices with a lot of trash." It does not. It says that the "[o]ffices were left in *a state of general trashing*," and then provides examples that the GAO omits – "[c]ontents of drawers dumped on the floor," "[d]esk top glass smashed and on the floor," and "[r]efrigerators unplugged (spoiled food)."

 - The GAO says that the list "listed . . . cut telephone lines." In fact, the list says "[t]en phone lines cut in the [E]EOB – *pulled from the wall*."

 - The GAO says that the list "listed . . . a secure telephone *left operational*." It does not. It says that "a stu3 phone . . . *was left open with the key in it*."

Now on p. 2.

2. **PAGE 3.** The GAO misidentifies the units that comprise the EOP. As stated above, not all of the units identified by the GAO fall squarely within the EOP. *See*, *e.g.*, *Sweetland v. Walters*, 60 F.3d 852, 854-55 (D.C. Cir. 1995) ("the Executive Residence is not a unit within the Executive Office of the President"). And none of the EOP units are "agencies," as the GAO contends (*see* Report at 3 n.2 and 4).

Now on pp. 6 and 19.

3. **PAGES 7 and 23.** The GAO concludes that "[d]amage, theft, and pranks did occur in the White House complex during the 2001 presidential transition." Congressman Barr asked the GAO to address "vandalism," and elsewhere in the report, the GAO discusses observations of vandalism. Is the GAO unwilling to conclude that "vandalism," as well as "damage, theft, and pranks" occurred? Or did the GAO simply inadvertently omit the word "vandalism" in these two instances?

Now on p. 6.

4. **PAGE 8.** The GAO writes that "[m]ultiple people said that . . . they observed (1) many offices that were messy, disheveled, or contained excessive trash or personal items." That is an understatement, to say the least. The offices were not simply "messy" and "disheveled." Multiple observers told the GAO that the offices, for example, had more than 20 W keys glued to the walls; at least 14 to 19 pieces of furniture overturned; computers piled up or overturned on floor; telephones and fax machines unplugged and/or piled on the floor in 25 or more offices; at least a dozen fax lines switched; 5 or 6 glass desk tops broken; a plant dumped in the middle of the floor; drawers open and their contents dumped on the desk or the floor; food inside of desks; and beer, wine and liquor bottles littering offices. When one knows the specific allegations, a reader can evaluate the explanation offered by "some former Clinton administration staff" that "the amount of trash that was observed during the transition was what could be expected when staff move out of their offices after 8 years."

 Further, if the GAO is going to include the statement by former Clinton administration staff that the amount of trash was "what could be expected," it should also include the statements of longtime staff members who said the opposite. For example, an individual who has worked in the White House complex since 1971 told the GAO that the amount of trash "was beyond the norm," and a different individual, who has worked in the White House complex for 17 years, said that the trash was "worse this time" than in prior transitions and that the offices were "more messy" than what he had observed during other transitions.

Now on p. 6.

5. **PAGE 8.** The GAO reports that some former Clinton Administration staff said that "some reported observations were false." We are disappointed that President Clinton's former staff would make such a reckless statement – a statement that is neither based on nor supported by a single shred of evidence. We believe that self-serving accusations like this one illustrate why it is important to provide the reader with many of the details that the GAO omits. If, for example, the reader is told that a particular observation was made by a staff member who worked in the complex for many years (including during the Clinton Administration), or that the damage was found in a location where others observed lots of other damage, then the reader can determine for himself the credibility of the observation.

Now on p. 7.

6. **PAGE 9.** The GAO writes: "[D]ocumentation was provided indicating that much telephone service work was done during the transition, but this information did not directly corroborate allegations of vandalism and pranks involving the telephones." We simply do not understand how the GAO can say the documentation does not corroborate the allegations. Several staff members reported missing telephone labels, and the documentation shows, for example,

 - a list of closed telephone service orders that shows, among other things, at least 28 separate work-order requests for replacement of labels on one or multiple telephones;
 - a Telephone Service Request (TSR) that says, "NEED Button labels typed. Tech to label sets";

- a TSR that says, "Room[s] 274, 272, 284, & 286. Program phones . . . NEED Button labels typed. Need tech to place labels on sets";
- a TSR that says, "Room[s] 272 & 276. Program phones . . . NEED Button labels typed & placed on sets";
- a TSR that says, "Reprogram sets in Room 263, 265, 266, 267, 268, 269 and 271. NEED labels placed on each set";
- a TSR that says, "NEED TECH TO PLACE BUTTON LABELS" on sets in Room 270;
- a TSR that says, "Replace labels on all phones that removed" in Room 18;
- a TSR that says, "Need label placed on set" in Room 148; and
- a TSR that says, "NEED Label placed on set" in Room 100.

In addition, the GAO received two TSRs that show work – "including . . . relabeling" – performed on January 20 and 21, 2001, when individual work orders were not completed.

Likewise, staff members reported that telephones were left on the floor, and the documentation shows a request for a technician to retrieve a telephone found on the floor.

Now on p 7.

7. **PAGE 9.** The GAO writes that "[s]eventy-nine EOP staff who worked in the White House complex on or after January 20, 2001, provided observations about the condition of the complex at the beginning of the administration." This statement is inaccurate in two respects. First, many of these 79 staff members worked in the complex *before*, during, and after January 20, not simply "on or after January 20, 2001." Second, those staff members provided observations of damage, vandalism, and pranks that occurred shortly *before* "the beginning of the administration" – on January 19 and the early morning of January 20, 2001.

Now on p. 8.

8. **PAGE 10.** The GAO reports that "EOP staff . . . observed a total of about two dozen prank signs, printed materials, stickers, or written messages that were affixed to walls or desks; placed in copiers, desks, and cabinets; or placed on the floor." We believe the GAO has substantially underreported the number of signs and messages. The GAO was informed of, and has not disputed, the following observations:

MESSAGES AND SIGNS WRITTEN ON OR AFFIXED (NOT SIMPLY TAPED) TO FURNITURE AND OTHER GOVERNMENT PROPERTY	
Location	**Observation**[4]
EEOB – 191	Sticker affixed to filing cabinet that reads "jail to the thief"; shown to GAO
EEOB - 191A	Writing on a pull-out tray on desk that reads "W happens"; shown to GAO
EEOB - 191B	Writing in top left drawer of desk that reads "GET OUT"; shown to GAO

[4] The comments in this table were, collectively, reported by 7 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

EEOB - 196A	Writing in middle drawer of desk that reads "Hail to the Thief"; shown to GAO
EEOB – 197	Key broken off in file cabinet with Gore bumper sticker with the words "Bush Sucks" stuck to the inside of the cabinet (observed by two persons)
EEOB - 125A	Writing in middle drawer of desk that wishes all "who work here" "good luck"; shown to GAO.
EEOB – 1st floor	Writing in desk drawer
West Wing – outside COS and VP offices	Gore bumper sticker stuck to the bottom of paper tray in the copier

SIGNS AND MESSAGES (not including messages and signs written on or permanently affixed to property)	
Location	**Observation**[5]
West Wing – Vice President's Office	"Vulgar words" on white board*
West Wing	Sign comparing President Bush to a chimpanzee found "in a number of printers"; "laced" throughout the reams of paper**
West Wing – Vice President's Reception Area	Three copies of the same sign taped to wall (observed by two persons)*, ***
	15-20 copies of the same sign laced throughout ream of paper in fax machine and copier (observed by two persons)
West Wing – First Floor	Same sign shuffled throughout the paper tray in copy machine outside the Chief of Staff's office
West Wing	20-30 copies of same sign interspersed throughout ream of paper in printer in office that is adjacent to the Oval Office
East Wing	8" x 10" color piece of paper that said "see you in four, Al Gore" in drawer of the copy machine
EEOB – room not identified	Same President Bush/chimpanzee sign found in a printer*
EEOB – basement	In location where people "dumped" supplies, a sign read "Gifts for the New President" (Head Telephone Operator)+

[5] The comments in this table were, collectively, reported by 28 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

EEOB – 87	Sign taped to a desk of a mock MasterCard ad that includes a picture of President Bush and reads, "NEW BONG: $50, COCAINE HABIT: $300, FINDING OUT THAT THE GOOD-OLD-BOY NETWORK CAN STILL RIG AN ELECTION IN THE DEEP SOUTH: PRICELESS. For the rest of us there's honesty." The GAO was provided with a copy of this sign.
EEOB – 100-104	T-shirt with tongue sticking out draped over chair*
EEOB – 128	Sign that read "just laugh" taped to the wall
	Signs
EEOB – 160-164	"Inappropriate" message in printer or fax tray
	"Quite a few signs"
EEOB – 160	Picture of former First Lady taped to the inside of cabinet
EEOB – 162	Photo in safe that had the word "chad" spelled out in paper punch holes (observed by two persons)
EEOB – 177-189	Signs
	Notes in the desk drawers
EEOB – 192	Sign addressed to and disparaging of "Bush staffer" on wall
	Sign of a mock *Time* magazine cover that read "WE'RE ******" on wall (observed by five persons)
EEOB – 197B	Desk drawer had 2 Gore/Leiberman stickers displayed inside
EEOB – 2d floor	Picture of Bush with something drawn on it on the 2d floor^
EEOB – 3d floor library	Sign reading "VP's cardiac unit" (observed by two persons) ++, +++. The GAO was shown a copy of this sign.
EEOB – 4th floor	Pictures of President Clinton and notes about President Bush "were everywhere." ^^
EEOB	Signs inserted into office nameplates, including signs outside of the former First Lady's Office (Room 100-104), the OMB, and the Office of Faith-Based and Community Initiatives (observed by four persons; three of these (two OA employees and one GSA employee) had worked in the White House complex during the Clinton Administration)

*OA employee who worked in the White House complex during Clinton Administration
** OA employee who worked in the White House complex during Clinton Administration
*** OA employee who worked in the White House complex during Clinton Administration
+ OA employee who worked in the White House complex during Clinton Administration
++ OA employee who worked in the White House complex during Clinton Administration
+++ OA employee who worked in the White House complex during Clinton Administration
^ GSA employee who worked in the White House complex during the Clinton Administration
^^ GSA employee who worked in the White House complex during the Clinton Administration

Obscenity deleted by GAO.

Now on p. 8.

9. **PAGE 10.** While, in some cases, the signs listed above were easily removed and, in a few cases, were probably meant as a joke, we believe the GAO should describe the signs more fully and with greater detail for the reasons stated in General Comment No. 1. Two statements on page 10 illustrate why. *First*, the GAO reports that "one former employee . . . said that the prank signs that she saw were harmless jokes." The reader is unable to determine whether the signs were truly "harmless jokes" in some, many, or all of the cases, unless the content is included. *Second*, the GAO reports that it was shown "2

stickers affixed to a file cabinet and desk containing arguably derogatory statements about the [P]resident." The GAO is referring to a sticker that reads "jail to the thief." We do not think that statement is "*arguably* derogatory," and we believe that many people would agree with us. Yet, since the report does not reveal the content of the statement, the reader cannot determine whether the GAO is accurate in saying the statement is "arguably derogatory."

Now on p. 8.

10. **PAGE 10.** The GAO reports that "[t]wenty-six EOP staff said that they observed a total of 30 to 64 computer keyboards with missing or damaged 'W' keys" where a specific room or office was identified. Again, we believe the range provided by the GAO ("30 to 64") does not accurately reflect the number of observations reported. According to our records, which we earlier provided to the GAO and the GAO did not dispute, staff members observed a total of 58 to 70 computer keyboards with missing or damaged W keys where a specific office or room was identified. In addition, staff members reported 150 keyboards with missing or damaged W keys, where the staff member did not associate the observation with a particular room or office. The data are set forth below:

MISSING OR OTHERWISE DAMAGED W KEYS (where a specific room or office was identified)		
Room no. or office	**No. observed[6]**	**No. for report (reason)**
Former 1st Lady's Office, 100-104	Approx. 10 (observer "A")[7] 7+ ("at least one in each of the 7 offices in suite") (observer "B") Approx. 18 (observer "C")	Approx. 18 (C's observation likely included the same damaged keyboards seen by A, B, D, and E)
102	2 (observer "D")	
104	1 (observer "E")	
106	Approx. 2	Approx. 2
158/160A	2	2
160	1	1
172	1	1
173	1	1
176	1	1
Advance Office (177-189)	3-4 3-4 15-16 "at least" 7-8	15-16
196, 197, 197A, 197 and/or 199	1-2 (observer "V")	5-7 (W's observation likely included the same keyboards seen by V, X, Y and Z)
197, 197A, 197B, and/or 199	5 (observer "W") (4 missing, 1 defaced)	
197B	1 (observers "X" and "Y")	
199	1 (observers "Y" and "Z")	

[6] The comments in this table were, collectively, reported by 26 separate individuals. Unless otherwise indicated, each line reports an observation by one person.
[7] Letter designations are for purposes of this table only.

198	1	1
OVP	4-5 "heavy concentration" **; "some" ***	5-10
286	1	
288	4	
West Wing*	6-10****	6-10
Total		**Approx. 58-70**

*Although no specific room was identified in the West Wing, we have included this observation in this table because, as stated in footnote 19 of the Report, the GAO places it in this category.
** OA employee, worked in the White House complex during the Clinton Administration.
*** OA employee, worked in the White House complex during the Clinton Administration.
**** OA employee, worked in the White House complex during the Clinton Administration.

MISSING OR OTHERWISE DAMAGED W KEYS (where NO specific room or office was identified)		
Location	**No. observed[8]**	**No. for report (reason)**
EEOB and WW	150**	150
EEOB – no specific location	1***	0-1 (observation likely counted above)
First Floor, East Hall – EEOB	2	0-2 (observation likely counted above)
Total		**150**

**OA employee, worked in the White House complex during Clinton Administration
*** OA employee, worked in the White House complex during the Clinton Administration.

Now on p. 9.

11. **PAGE 11.** The GAO repeats its statement (found on page 8 of the Report) that staff "told us that they saw offices that were messy, disheveled, dirty or contained excessive trash or personal items left behind" and that "[f]ormer Clinton administration staff said that the amount of trash that was observed during the transition was what could be expected when staff move out of their offices after 8 years." Please refer to the comments we provided in Specific Comment No. 4.

Now on p. 9.

12. **PAGES 11-12.** The report states that the "EOP provided seven pictures that . . . showed piles of binders and office supplies, empty beverage containers, and other items left behind. However, a Clinton administration transition official said that the pictures showed trash, and not vandalism." The GAO's description of the photographs is, in our view, incomplete. Any description of the photos should also say that the pictures show, among other things, binders, folders, papers, and other trash piled in the middle of the floor; framed pictures and bulletin boards removed from the walls and placed on the ground and on furniture; Christmas lights and strands of tinsel hung from the walls; desk drawers and cabinets left open and containing Easter decorations and personal products; and office supplies piled on sofas.

[8] The comments in this table were, collectively, reported by 3 separate individuals. Each line reports an observation by one person.

Now on p. 10.

13. **PAGE 12.** The report describes two facility request forms that document requests for cleaning in particular offices where the GAO was told by current staff that the offices were "trashed" or extremely "filthy." The GAO, however, fails to mention three additional and similar facility request forms that we provided:

- A January 30, 2001, facility request form (Form No. 56990.) shows that an employee asked for the following services in the Advance suite: "Walls/moldings need patching and paint. . . . 1 – Need carpet vacuumed – is awful! 2 – Furniture cleaned and drawers need vacuuming out. 3 – Drapery needs cleaning or replacement." Facility Request No. 56990. During her interview, this employee told the GAO that the Advance suite was "still trashed out" even after the GSA crew went through the offices for the first time and that it took approximately three weeks before things were "back to standard."

- A January 25, 2001, facility request form (Form No. 56662) shows that a different employee asked that GSA clean the carpet, furniture, and drapes in Room 160A. Facility Request No. 56662. This employee had to repeat that request on February 17, by submitting another form (which the GAO does describe) to clean a room that the employee said was "extremely trashed."

- A February 21, 2001, facility request form (Form No. 58369) shows a request to clean the carpet in the former First Lady's suite (Rooms 100-104). At least four current staff members told the GAO that this office suite was trashed, including reports of pencil shavings, dirt, and trash covering the floor.

- In addition, in describing the January 30, 2001, facility request form, the GAO writes that the form "documented a request to clean carpet, furniture, and drapes in an office that an EOP employee said was 'filthy' and contained worn and dirty furniture." This description is incomplete. The same employee, as well as others from her office suite, also told the GAO about significant damage to furniture in those offices, including a desk drawer with its drawer fronts removed, chairs without legs, and a chair with its entire back broken off.

Now on p. 11.

14. **P AGE 12.** The GAO underreports the number of reports of damaged furniture and the number of observers. Our records show *17* current staff members reported *a minimum of 31 to 33 pieces* of damaged furniture – not counting the furniture that was defaced with writing and stickers – as follows:

13

DAMAGED FURNITURE	
Location	**Observation**[9]
100-104 (Former First Lady's office)	4 chairs with broken legs
102	Desk drawers kicked in – "clearly" intentional; "not just wear and tear"
103	Desk drawers locked; pried open the drawers and found 2 pieces of paper that had anti-Bush statements
104	2 broken chairs – arms lifted off (observed by two persons) (The GAO apparently believes that one of the two observers said that 1 or 2 chairs had broken arms. That is incorrect; he told the GAO that 2 chairs had broken arms, and indeed showed the GAO the chairs.)
158-160A	"Number of the desks" appeared to have been scratched with knives; multiple "big scratches with a sharp object"; other furniture had red pen marks and other stains
160A	Desk covered with 5-6 black, circular burn marks; appeared to be cigar burns
160-164 (Cabinet Aff.)	1 or 2 chairs with broken legs (observed by three persons)
	1 chair with its entire back broken out (observed by two persons)
	1 chair with ripped seat
162	Desk with 2 or 3 of the drawer fronts removed (observed by four persons, and witnessed by GAO)
177-189 (Advance)	Glass top shattered on floor; appeared that someone stomped on it
179	Lock to the cabinet in desk had been jammed inward so that it would not function
185-189	Desk had a key broken off in the lock
197B	Key broken off in file cabinet; key hanging in lock by metal thread, and Gore bumper sticker found inside (observed by four persons)
199	Glass in glass-fronted bookcase was broken with glass still sitting in cabinet
EEOB – Southwest corner of first floor	Cabinet with two doors hanging from hinges**
First floor EEOB – in hall	Chairs with slit seats
No specific room identified	Sofa with broken legs and other broken furniture – probably in Counsel's office, the Scheduling office, and in the Advance offices

[9] The comments in this table were, collectively, reported by 17 separate individuals. Unless otherwise noted, each line reports an observation by one person.

No specific room identified	Some broken pieces of furniture; upholstered pieces of furniture were "filthy" and had spills on them in same offices, where months and weeks earlier, things looked "pretty good"**
No specific room identified	Broken glass tops in 5 or 6 offices
No specific room identified	Broken mirror

**OA employee, worked in the White House complex during Clinton Administration

Now on p. 11.

15. **PAGE 12.** The GAO reports that "[f]ormer Clinton administration staff said that some furniture was broken before the transition and could have been the result of normal wear and tear, and little money was spent on repairs and upkeep during the administration." This explanation cannot be squared with the circumstances surrounding the reported damage. For example,

- With respect to the key broken off in a file cabinet in Room 197B, the key was found still hanging in lock by a metal thread (suggesting that the damage occurred not long before the transition) and, when the locksmith opened the cabinet, a Gore bumper sticker with the words "Bush Sucks" was prominently displayed inside (suggesting that the damage was intentional and done by a member of the former Administration).

- Similarly, when the locked desk drawers were pried open in Room 103, two pieces of paper with anti-Bush statements were found displayed inside. Again, in our view, these facts indicate that the damage was intentional, occurred shortly before the transition, and was done by a member of the former Administration.

- One employee told the GAO that the drawers on her desk "clearly" had been kicked-in intentionally and that it was "not just wear and tear";

- A second employee told the GAO that it was unlikely that the slit seats were the result of wear and tear because "the fabric otherwise looked new," and "it looked like someone had taken a knife or sharp object to the seat"; and,

- A third employee told the GAO that she saw damaged furniture in offices where things had looked "pretty good" weeks or months earlier.

- Finally, in still other cases, the nature of the damage suggests that it occurred shortly before the Inauguration because the offices' prior occupants and cleaning staff would not have let the damage remain in the office for long. For example, it is hard to believe that occupants would not fix or remove a bookcase with broken glass (with shards of glass still in the cabinet) or would allow chairs with broken legs and no backs to remain in an office suite for very long.

Now on p. 10.

16. **PAGES 12-13.** The GAO lists four facility request forms that show that staff requested repairs of furniture that they told GAO was damaged. The GAO, however, to fails to include in its list a second facility request form (Form No. 56695) submitted by a staff

Now on p. 11.

member on January 29, 2001, to obtain "a key to lateral file cabinet," which was "locked."

17. **PAGE 13.** We believe that the GAO has underreported the pieces of furniture that were observed overturned. Our notes show (notes that were provided to the GAO and the GAO did not dispute) that five White House employees, one OA employee, and one GSA employee reported seeing *at least 14 to 19 pieces of furniture* that were on their sides or overturned, as follows.

OVERTURNED FURNITURE		
Location	**Observation[10]**	**No. of pieces**
128	In each of the three offices and the secretary's space, almost every desk was overturned – at least one desk or table in each room	4+
177-189 (Advance Off.)	At least 2 "desks turned over"	2+
	Coffee table standing on end	1
	Sofa upside down	1
	Tables upturned	2+
OVP	Chair overturned	1
1st floor EEOB	3-4 pieces of furniture turned over; "couple desks on side," "couple of chairs"**	1-3
Not identified	Desks and credenzas turned on their sides *	2
Not identified	Overturned sofa	0-1 (may or may not be same one seen by a different person)
Not identified	Desks turned on sides	0-2 (may or may not be same ones that others observed)
TOTAL		**At least 14-19**

*GSA employee, worked in the White House complex during Clinton Administration
**OA employee, worked in the White House complex during Clinton Administration

[10] The comments in this table were, collectively, reported by 7 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

Now on p. 11.

18. **PAGE 13.** The report reads: "Six EOP staff said they observed a total of four to five desks with a sticky substance or glue on the top or on drawers." That is inaccurate and incomplete. The GAO was told that a thick layer of an oily glue-like substance was smeared on the bottom of the middle drawer of the desks and smeared all over the top of the right pull-out trays of at least two desks. In addition, three separate employees said that the desk-drawer handle on at least one of the desks was missing, and one of the three said that the handle was found inside the drawer along with more of the glue substance.

Now on p. 11.

19. **PAGE 13.** The GAO writes that "four EOP staff said that they observed a total of 10 to 11 missing doorknobs, which may have been historic originals." In fact, the GAO was told that 11 to 13 doorknobs were missing, as follows:

MISSING DOORKNOBS		
Location	**Observation[11]**	**No. of doorknobs**
EEOB - 128D	2 pairs of doorknobs missing on pair of exterior doors	4
EEOB – 1st floor, closet at top of Navy steps	1 doorknob missing **	1
EEOB – interior door between Rooms 286 and 288	1 pair missing	2
EEOB – Room 288, exterior door to hall	1 pair missing	2
EEOB – 4th floor	1 pair missing **	2
EEOB – location not identified	Missing doorknob***	0-2 (may or may not be accounted for in the above observations
TOTAL		**11-13**

**OA employee, worked in the White House complex during Clinton Administration
***OA employee, worked in the White House complex during Clinton Administration

Now on p. 11.

20. **PAGE 13.** The GAO is incorrect when its states that "two EOP staff said they observed a total of 9 to 10 missing television remote controls." An employee of the OVP said that five or six television remote controls were missing from the OVP offices, and a second employee said that "approximately five remote controls" disappeared from various offices throughout the correspondence suite. (The second employee had worked in the same offices before the transition.) Thus, there were reports of 10 to 11 missing remote controls.

[11] The comments in this table were, collectively, reported by 4 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

Now on p. 11.

21. **PAGE 13.** The report states that "two EOP officials said that about 20 cellular telephones could not be located in the office suite where they belonged" and that "[t]he former occupants of offices during the Clinton administration where items were observed missing said that they did not take them."

- The GAO is referring here to cellular phones that were missing from the OVP, and should so state.

- The second clause suggests that the GAO interviewed all former employees of the OVP, and all former OVP employees said they did not take them. But that is not true.

Now on p. 11.

22. **PAGE 14.** The GAO refers to a February 7, 2001 facility request form that asks the GSA to "put doorknob on" interoffice door. We ask the GAO to quote from – rather than paraphrase – this request since the form shows that the requesting employee is incorrect in his recollection that the doorknob was simply repaired (not replaced). Also, if the GAO includes this employee's recollection, we ask that it state his recollection is inconsistent with the facility request form and at least three current staff members, including the employee who prepared the form.

Now on p. 8.

23. **PAGE 15.** The report states that "[s]ix staff said that they observed writing on the walls of *two* rooms." In fact, the GAO was told about writing on the walls of *four rooms*, as follows:

WRITING ON WALLS		
Location	**Observation**[12]	**No. for report**
EEOB – 191M	Graffiti in the men's restroom read, "What W did to democracy, you are about to do in here" (observed by five persons)	1
EEOB – Scheduling Office	Writing on the wall that said something like "Republicans, don't get comfortable, we'll be back"	1
EEOB – wall on or near Room 158	a wall was covered in pencil and pen marks, which was described as "slasher marks" and "beyond normal" wear and tear	1
EEOB – 2d floor	Entire wall in one office was covered in lines that appeared at a distance to be cracks	1
TOTAL		**4**

Now on p. 12.

24. **PAGE 15.** The GAO underreports the number of telephones found with missing labels and the number of observers when it states that "[f]our EOP staff said that they observed a total of 99 to 108 telephones that had no labels identifying the telephone numbers." Based on conservative estimates and calculations, 5 (not 4) staff members (2 White

[12] The comments in this table were, collectively, reported by 8 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

House employees, 2 OA employees, and 1 OVP employee) recalled observing in specific offices or rooms *at least 112-133* telephones that had no labels identifying the telephone numbers. Specifically, our records show:

MISSING PHONE LABELS IN IDENTIFIED OFFICES OR ROOMS		
Location	**Observation**[13]	**No. of pieces for calculating total**
18	"at least 3 missing labels, possibly 5" (observed by two individuals)	3-5
100-114 ("south corridor")	"additional labels missing in rooms on the South corridor"	2+
115	1 phone missing label	1
118	"at least 3 phones" were missing labels	3+
119	8 phones; "all phones were missing their labels" – both the large paper panel that lists the lines that are in use and the small label that lists the number of the phone	8
121	"phones were missing labels"	2+
122	1 phone was missing label	1
118-122	"lot missing" in Public Liaison space **	0
	"all stations" in the Public Liaison offices were missing labels; personally saw roughly 18 phones without labels	0-18
123	"phones were missing labels"	2+
156/158	2 or 3 phones were missing labels	2-3
168/170	"couple missing phone labels"	2
177-189 (Advance)	"couple missing phone labels"	2
	"some missing in Advance" **	0
190-199 ("center corridor")	"some missing in center corridor" on 1st floor **	2+
OVP	"labels on phones were all gone" in all OVP offices	82
TOTAL		**AT LEAST 112-133**

**OA employee, worked in the White House complex during Clinton Administration

[13] The comments in this table were, collectively, reported by 5 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

Now on p. 12.

25. **PAGE 15.** The draft report states that "seven EOP staff said they saw telephones unplugged or piled up." This statement provides the reader with no information regarding how many phones or how many offices were affected. Our records show that 25 or more offices in the EEOB had phones piled up or unplugged.

Now on p. 58.

26. **PAGE 16.** In its summary of the reported damage, the GAO fails to mention the telephones that were forwarded and reforwarded throughout the complex. According to our records, roughly 100 telephones were forwarded to ring at other numbers, as follows:

FORWARDED PHONES		
Location	**Observation**[14]	**Total no. of pieces**
129	"couldn't answer phone because, as soon as it rang, it would bounce to another phone in the suite, and then went straight into a voice-mail system that could not be accessed"	1
156 and other Presidential Personnel offices	"phones were forwarded and then reforwarded so we could not figure out what number would ring the phone" on desk	2+
187½	Phone number in office (187½) did not ring if dialed the number on the phone	1
West Wing – NEC	Phones forwarded	2-5
West Wing	"called someone and reached a different and unrelated person"	1
West Wing – Chief of Staff's Office	"the Chief of Staff's phone had been forwarded to ring at a phone in a closet"	1
West Wing and EEOB	"majority of the phones did not ring" at the assigned phone number; "roughly 100" phones had been forwarded to ring at a different number; "phones [in the West Wing] were forwarded from the first floor to the second floor" and "phones from the West Wing were forwarded to the EEOB"	Roughly 100
EEOB – not identified	Found at least 7-10 forwarded phones	7-10
TOTAL		**Roughly 100**

Now on p. 13.

27. **PAGE 16.** The draft report states that "[t]wo EOP staff said that they saw a total of 5 to 7 telephone lines 'ripped' (not simply disconnected) or pulled from the walls, and another EOP employee said that she saw at least 25 cords torn out of walls in two rooms. Former Clinton administration staff said that cords were probably torn by moving or carpet repairs." The GAO has failed to provide the reader with important information – information needed to promote "an adequate and correct understanding of the matters

[14] The comments in this table were, collectively, reported by 7 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

reported." Government Auditing Standard 7.51. The GAO fails to explain that the "two EOP staff" were the White House Director of Telephone Services and the OA's Associate Director for Facilities Management who together began touring offices and checking phone lines in the EEOB at approximately 1 a.m. on January 20 – before any moving or carpet repairs began in these offices. Thus, this is an instance where information that the GAO omits would have allowed the reader to test the credibility of the explanation provided by the Clinton administration staff.

Now on p. 14.

28. **PAGE 17.** The GAO writes that, "with three exceptions," "[the GAO] w[as] generally unable to determine when the observed incidents occurred and who was responsible for them because no one said he or she saw people carrying out what was observed or said that he or she was responsible for what was observed." We respectfully disagree.

- In many cases, the undisputed facts indicate when the incidents occurred and the likely perpetrators. For example,
 - With respect to the key broken off in a file cabinet in Room 197B, the key was found still hanging in lock by a metal thread (suggesting that the damage occurred not long before the transition) and, when the locksmith opened the cabinet, a Gore bumper sticker with the words "Bush Sucks" was prominently displayed inside (suggesting that the damage was intentional and done by a member of the former Administration).
 - Similarly, when the locked desk drawers were pried open in Room 103, two pieces of paper with anti-Bush statements were found displayed inside. Again, in our view, these facts indicate that the damage was intentional, occurred shortly before the transition, and was done by a member of the former Administration.
 - All of the obscene, inappropriate, and prank voicemail greetings must have been recorded shortly before the Inauguration (since many of the messages referred to the change of Administration and one presumes that former staff would not have left vulgar or inappropriate such messages on their phones during the Clinton Administration) and must have been recorded by the person who was assigned that telephone during the Clinton Administration (since a personal identification code is needed to change the voicemail greeting).
 - According to an individual who worked as White House Director of Telephone Services from 1973 to 2001, some of the missing telephone labels "were replaced early on January 20 – before noon"; but the labels were found "missing again later that day." These facts show that the removal of at least some of the labels was an intentional act, occurred early on January 20, and outgoing staff members were almost certainly responsible.
 - The oily glue-like substance that was smeared on desks in the Vice President's West Wing office; prank signs that were on walls and interspersed in reams of paper in printer trays and copy machines in the Vice President's West Wing

office; and the "vulgar words" on a white board in that office were all discovered between midnight on January 19 and noon on January 20 by three different individuals. Since we presume that Vice President Gore's staff did not generally work under these conditions, we can reasonably conclude that that this damage occurred shortly before the Inauguration and again, members of the former Administration were the likely perpetrators.

- Similarly, it is unlikely that Clinton Administration staff worked for long without having W keys on their keyboards, again suggesting that the vandalism occurred shortly before the Inauguration.

- In other cases, the person who observed the damage firsthand told the GAO that the nature of the damage itself, and the surrounding conditions, suggested that the damage was done shortly before the transition weekend. For example, one employee told the GAO that she saw damaged furniture in offices where things had looked "pretty good" weeks or months earlier.

- In still other cases, the nature of the damage suggests that it occurred shortly before the Inauguration because the offices' prior occupants and cleaning staff would not have let the damage remain in the office for long. For example, it is hard to believe that occupants would not fix or remove a bookcase with broken glass (with shards of glass still in the cabinet) or would allow chairs with broken legs and no backs to remain in an office suite for very long.

- In addition, and with all due respect, it is not true that the GAO "was generally unable to determine who was responsible." The GAO simply failed to determine who was responsible. The GAO was able to identify the "former Clinton administration employee who said he wrote a 'goodwill' message inside the drawer of his former desk" because the GAO called that individual. The GAO failed, however, to try to contact the occupants of the offices where other written messages – expressing things other than "goodwill" – were left. Similarly, the GAO could have contacted – but failed to contact – several former Clinton administration staffers who left inappropriate voicemail messages. And the GAO did not contact all the former staff members who occupied offices where missing or damaged W keys, missing telephone labels, or other damage was found. Therefore, it is inaccurate, in our view, to say that the GAO was "generally *unable* to determine who was responsible." Respectfully, in our judgment, the GAO simply decided not to pursue the inquiry in many cases.

- Finally, the GAO's suggestion (at page 17) that "contractor staff, such as movers and cleaners" were responsible for the vandalism, damage, and pranks is, in our view, preposterous. It is an insult to the men and women who worked so hard during the weekend of January 20 to clean up the conditions left by the prior Administration and prepare the complex for the new staff.

29. **PAGE 18.** The GAO writes that, for certain categories of damage, "the observations of EOP staff differed from the [June 2001] list in terms of total numbers of incidents or [the]

Now on p. 14.

alleged extent of damage." The GAO then provides, as an example, the statement included in the list that furniture in six offices was damaged severely enough to require a complete refurbishment or destruction. But the GAO learned of at least 28 to 31 pieces of damaged furniture, including 5 or 6 chairs with broken legs (reported by four employees), 1 chair with its entire back broken out (reported by two employees), and a desk with its drawers kicked in (reported by one employee). These pieces of furniture, at the very least, would have required a complete refurbishment or destruction; they simply could not have been used in their current condition. In addition, when the GAO asked the Director of the Office of Administration what happened to the damaged furniture, he said that some of it was "thrown in the dumpster." Thus the observations of staff members did not, as the GAO suggests, differ from the June 2001 list.

Now on pp. 15-17.

30. **PAGES 19-20.** The GAO omits the following documented costs from its list of "Costs Associated with the Observations":

- A January 30, 2001, facility request form (Form No. 56713) shows that Cabinet Affairs asked for someone to clean the carpet, furniture, and drapes in Rooms 160, 162, and 164. GSA charged $2,905.70 for that service. As the GAO acknowledged earlier in its report (at page 12), this request was for an office suite that a White House Office "employee said was 'filthy' and worn and dirty furniture." As noted above, that same employee, as well as others from her office, also told the GAO about significant damage to furniture in those offices, including a desk drawer with its drawer-fronts removed, chairs without legs, and a chair with its entire back broken off.

- The GAO's discussion of the "costs" associated with telephone problems is both inaccurate and incomplete. Based on extremely conservative estimates and straightforward documentation, the government incurred *at least* $6020 just replacing removed labels and rerouting the forwarded telephones. The evidence shows:

 - *First*, the GAO received, *but fails to mention*, a blanket work order and bill for work – including "relabeling" work – performed on Saturday, January 20, 2001. The techs billed 114 hours at a rate of $113.88 per hour for each hour or fraction of an hour spent on a particular job. Consequently, if technicians spent only ten percent of their time relabeling phones and correcting forwarded telephones on Saturday (a conservative estimate given that there were between 112 and 133 specifically identified missing labels and roughly 100 forwarded phones), that means it cost the taxpayer $1,298 for one day's work replacing the removed labels and fixing the forwarded phones.

 - *Second*, and similarly, the GAO acknowledges that it received a work order and bill for work – including "replacing labels on telephones" – performed on Sunday, January 21, 2001. But the GAO fails to estimate any costs associated with that work. The bill shows that the techs worked 78.5 hours that day at a rate of $151.84 per hour for each hour or fraction of an hour spent on a particular job. That means that, if technicians again spent only ten percent of their time

relabeling phones and correcting forwarded telephones, the taxpayer incurred an additional cost of $1,192 for that day's work replacing the removed labels and fixing the forwarded phones.

- *Third*, the GAO fails to estimate the costs associated with replacing labels even where it was provided both individual work orders and a summary of orders that specifically identify the relabeling work performed and the amount of time spent on the job. Specifically, we provided the GAO with a document entitled "Orders Closed 1/20/01 Thru 2/20/01" that lists many orders (some of which are highlighted above) where a tech was asked to place one or more labels on the telephone sets. For each of those orders, a "T&M" charge (time and materials) is identified in terms of hours and minutes. Those charges can be computed in dollars by multiplying the total number of hours of T&M charged times $75.92. We do not understand why the GAO failed to perform this simple exercise, particularly given its willingness to provide cost estimates in the context of missing and damaged W keys. Had the GAO done the calculation, the reader would know that approximately $2201.68 was spent to replace labels on telephone sets, as set forth below:

 - On Monday, January 22, 2001, a telephone tech was asked by the OVP to "PROGRM PHNS PER MATT, NEED BTN [button] LABELS, TECH TO LABEL SETS." The tech billed "4HRS" (4 hours) on this order, for an estimated total cost of $303.68. TSR No. 01010183.

 - On January 31, 2001, a tech was called to Room 273 of the OVP because, among other things, the phones "NEED BTN [button] LABELS TYPED, PLACED." The tech billed "2HRS" on this order, for an estimated total cost of $151.84. TSR No. 01010386.

 - On February 5, 2001, a tech was called to Room 200 because the phones "NEED LABELS PLACED ON SETS." The tech billed "2HRS" on this order, for an estimated total cost of $151.84. TSR No. 01020071.

 - On February 9, 2001, a tech was asked to "REPROGRAM [phone] IN ROOM 276 EEOB, [and] PLACE BUTTON LABEL ON SET." The tech billed "1HR" on this order, for an estimated total cost of $75.92. TSR No. 01020225

 - On January 29, 2001, a tech was called to Room 18 to, among other things, "REPLACE LABEL." The tech billed "1HR" to this order, for an estimated total cost of $75.92. TSR No. 01010306.

 - On January 30, 2001, a tech was called to Room 113 because the occupants "NEED LABEL PLACED ON SET BY TECH." The tech billed "1HR" to this order, for an estimated total cost of $75.92. TSR No. 01010342.

- On February 3, 2001, a tech was called to Room 100 to "PLACE BTN [button] LABEL." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020154.

- Also on February 3, 2001, a tech was called to Room 100 because the occupants "NEED BTN LABELS FOR SET." The tech billed "1 HR," for an estimated total cost of $75.92. TSR No. 01020156.

- In six additional and separate service orders on February 3, 2001, a tech was asked to "REPROGRAM" phones in the Room 100 suite and "TO PLACE LABEL ON SET." TSR No. 1020330; *see also* TSR Nos. 1020325 ("NEED LABELS PLACED ON SET"), 1020328 ("NEED BTN LABELS"), 1020329 ("NEED LABELS"), 1020331 ("NEED LABELS PLACED ON SET"), 1020340 ("NEED LABELS PLACED ON SET"). The tech billed "1HR" on each of the six service orders, for an estimated total cost of $455.52.

- On February 5, 2001, a tech was told that the occupants of Room 135 "NEED LABEL PLACED ON SET." The tech billed "1HR" for this order," for an estimated total cost of $75.92. TSR No. 01020075.

- On February 3, 2001, a tech was asked to "REPROGRAM SET [in] ROOM 137" and "PLACE LABEL ON SET." The tech billed "2HRS," for an estimated total cost of $151.84. TSR No. 01020099.

- On February 3, 2001, someone in Room 131 asked a tech to "PLACE LABEL ON SET." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020055.

- In a separate service request on February 3, 2001, a tech was asked to "REPROGRAM IN ROOM 137 EEOB" and "PLACE LABELS ON SET." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020168.

- On February 3, 2001, a tech was told that the occupants of Room 154 "NEED BUTTON LABEL," among other things. The tech billed "1HR" to this order," for an estimated total cost of $75.92. TSR No. 01020327.

- On February 5, 2001, a tech was told that "LABELS ALSO NEEDED" in a Presidential Personnel Office. The tech billed "1HR" for this order," for an estimated total cost of $75.92. TSR No. 01020360.

- On February 3, 2001, a tech was asked to "REPROGRAM [a phone] IN RM 131" and "PLACE LABEL ON SET." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020363.

- On February 2, 2001, a tech was asked to "REPROGRAM IN ROOM 184 EEOB" and "PLACE LABEL ON SET." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020132.

- On February 8, 2001, a tech was told that the occupants of Room 87 "NEED LABELS PLACED ON SET." The tech billed "1HR" on this order, for an estimated total cost of $75.92. TSR No. 01020160.

- *Fourth*, and even more perplexing, the GAO ignores the AT&T invoices ("Activity Reports") and individual works orders (TSRS) that we provided that show the *actual* charges incurred on particular orders. We have not attempted in preparing these comments to review all such invoices, but a sampling shows $1,328.60 in charges in addition to those listed above:

 - TSR No. 01010184 (request to "program phones" and "place labels on sets" in Rooms 272, 274, 284, and 286): $341.64.

 - TSR No. 01010185 (request to program phones and place labels on sets in Rooms 272 and 276): $341.64.

 - TSR No. 01010195 (request for, among other things, labels for sets in Rooms 263, 265, 266, 267, 268, 269, and 271): $341.64.

 - TSR No. 01010206 (request for, among other things, "tech to place button labels"): $303.68.

- *Fifth,* the GAO also can and should estimate, based on this data, how much it would cost to replace labels on 112-133 telephones (or, at least, on the 99 to 108 that the GAO concedes were observed missing) by estimating how much was charged per telephone and extrapolating that amount to account for the total number of missing labels.

- *Sixth*, the GAO suggests that it is unable to provide any estimate on the costs to repair the damaged phones because "the extent to which the service order that mentioned labels involved missing labels was not clear and all of the service order involving labels were part of order for other service." That is incorrect.

 - As we explained to the GAO, when a System Analyst (SA) performs work that does not require a technician to be dispatched to the office (*e.g.*, reprogramming a phone), there is no separate charge. If work requires a tech dispatch (*e.g.*, replacing a label), then there is a minimum charge of $75.92 for each hour or portion of an hour ($113.88 on Saturdays and $151.84 on Sundays), even if it takes only minutes to perform the work. Therefore, for service orders that requested, for example, both a telephone to be reprogrammed and its label to be replaced, the *entire charge* is attributable to replacing the label. This is clear from the AT&T billing invoices (or "Activity

Reports") that show that the cost associated with the work orders is for "LABOR CHARGES FOR EQUIP. MOVES/CHGS," and not for reprogramming expenses.

- In addition, for the service orders where the minimum charge of $75.92 was assessed, it is immaterial whether work in addition to replacing the label was performed; a charge of $75.92 would have been incurred for replacing the label(s) regardless of whether other work was performed within that first hour.

- Finally, the closed order list and the service orders do far more than "mention[] labels," as the GAO suggests. *See* Specific Comment No. 79.

Now on p. 16.

31. **PAGE 20 n. 9.** In estimating the cost to replace missing doorknobs, the GAO has "deducted the value of replacing one historic doorknob from the total number observed missing because . . . a GSA planner/estimator said that a facility request to install a doorknob in an office . . . was to perform maintenance on a doorknob with a worn-out part, not to replace a missing one." We are puzzled that the GAO would decide to credit the recollection of the GSA planner/estimator, even though his recollection is inconsistent with both a contemporaneous facility request form that asks GSA to "put doorknob on" interoffice door and the recollection of at least three current staff members who recall that no doorknob was on the door. The GAO's decision simply makes no sense to us. But if the GAO persists with that decision, we ask that the GAO also state in footnote 9 that the statement by the GSA planner/estimator is contrary to the documentation and the recollection of at least three other witnesses.

Now on p. 17.

32. **PAGE 21.** The GAO concedes that it has not even attempted to quantify additional costs that were incurred as a result of the damage, including:

- To pay computer staff and contractors who spent time replacing keyboards with missing and damaged W keys;
- To pay staff who devoted extra hours to removing W keys and prank signs affixed to walls and to clean up trash and dirt that exceeded reasonable amounts or amounts seen in prior transitions;
- To pay staff who devoted time to placing overturned furniture upright;
- To pay telephone personnel and technicians to remove inappropriate or obscene voice-mail greetings and to correct phones that had been forwarded to unidentified numbers;
- To pay telephone personnel and technicians to repair cables, phone jacks, and/or electrical cords pulled from the wall;
- To pay personnel to investigate the theft of a Presidential seal;
- To pay movers to remove damaged furniture;
- To replace damaged furniture that was not repaired;
- To remove and replace broken glass tops; and
- To hire repairman to repair broken cabinets and copy machines.

Now on pp. 17-18.

While it may not be possible to associate precise amounts with these costs, the GAO could have generated a range of estimates, but chose not to do so. We believe that this shortcoming in the investigation results in a substantial underreporting of the very real costs associated with the damage, vandalism, and pranks that occurred during the 2001 transition.

33. **PAGES 21-22.** In describing how the 2001 presidential transition compared with previous transitions in terms of damage, vandalism, or pranks, the GAO fails to include the statements of several current staff members – all of whom served during prior administrations and many of whom served during the Clinton Administration – who told the GAO that the damage observed during the 2001 transition was worse than prior transitions. The following statements are representative:

- "This was unusual. . . . Every administration has pranks," but this was "worse." (An employee who oversaw White House telephone services from 1973 to 2001)
- "Never remember seeing anything like this before." (same employee as above)
- "I never encountered any problems with telephones" when President George H.W. Bush left office. (same employee as above)
- Although he had been through many transitions, he "never thought [he] would find things like this." (same employee as above)
- One employee was "stunned" by the condition of the EEOB; he had "[n]ever seen anything like it" in prior transitions. (An employee who has observed five prior transitions)
- The amount of trash "was beyond the norm"; it was "cleaner in some other transitions." (An employee who has worked in the White House complex since 1971)
- The damage "was more than [he]'d seen in other transitions"; in the 1993 transition, this official saw "nothing comparable" to what he saw during this transition. (This Bush Administration official, who worked in the White House complex during Reagan Administration and the prior Bush Administration, personally toured four floors of the EEOB and West Wing on January 20, 1993)
- The trash was "worse this time" than in prior transitions; "more messy than other[]" transitions. (An employee who has worked in the White House complex for 17 years)

In addition, while pranks and damage may have been observed in prior administrations, the reported observations are not the same in number or kind as those observed during the 2001 transition. Yet the GAO does not mention this in its report. The reader, moreover, is hampered in drawing his own conclusion because the GAO fails to include details about how much damage was reported by current staff.

In addition, the GAO seems to overstate the extent of the damage reported during prior transitions. For example, while the GAO writes that the "observations included missing building fixtures like office signs and doorknobs," we understand there were no observations of "missing building fixtures" other than office signs and doorknobs, and those observations were few in number. A more accurate statement therefore might read "observations included 'no more than' 10 missing office signs and 1 or 2 missing doorknobs." Similarly, the GAO writes that the "observations included . . . messages written inside and carved into desks." We understand that there was only one observation of a message written inside a desk – the same observation that that the GAO repeats, for some reason, in the sentence that follows. And apparently there were only three observations of carving in desks by staff who served *only* during the Clinton Administration.

Finally, while the GAO refers to "piles of . . . equipment" (apparently referring to *only one* observation by a Clinton staffer of piles of telephones), the GAO fails to explain that the individual who has overseen telephone services since 1973, said that he "never encountered any problems with telephones" during the 1993 transition; he said that "perhaps some were unplugged, but that would be it." This employee also told the GAO that, as the Clinton Administration entered office in 1993, he was instructed to "get[] rid of [the] Republican phone system," which apparently resulted in the replacement of all the phones.

Now on p. 18.

34. **PAGE 22.** The GAO says that "[f]ormer Clinton administration officials told [the GAO] that departing EOP staff were required to follow a check-out procedure that involved turning in such items as building passes, library materials, government cellular telephones at the end of the administration." We have repeatedly told the GAO that some current staff members who served during the prior administration believe that the check-out procedures were often not followed and, in particular, building passes were not returned. The GAO apparently did not ask the Clinton staff or the National Archives to produce copies of the check-out forms, so there is no documentation to shed light on the issue. Consequently, we asked the GAO to include in its report the understanding of current staff – that some or all of the check-out procedures were not followed – and that there was no documentation to support or refute their claim. Or, alternatively, we asked that the GAO delete from its report the description to the "check-out procedures." For reasons that were not explained to us, the GAO has chosen not to do so.

Now on p. 19.

35. **PAGE 23.** The GAO writes, "Incidents such as the removal of keys from computer keyboards; the theft of various items; the leaving of certain voice mail messages, signs, and written messages; and the placing of glue on desk drawers clearly were done intentionally." We believe that this list of incidents is incomplete. The GAO should also include on its list at least the following observations – all of which appear, based on their timing, recurrence, and/or content, to have been done deliberately by former staff leaving the complex.

- Damage to computer keys (primarily W keys);
- W keys glued to walls and placed in drawers;

- Missing phone labels (some of which were replaced on January 19, only to have them removed again before noon on January 20);
- Forwarded telephones (including the Chief of Staff's phone which was forwarded to ring in a closet);
- "Crank" calls;
- Phones piled on floor (observed before cleaning staff and telephone technicians entered offices);
- Most if not all printers and fax machines emptied of paper in vacated offices in the EEOB;
- Removal of an office sign that was witnessed by current staff member;
- Overturned furniture (observed before cleaning staff entered offices);
- Key broken off in file cabinet that, when opened, displayed Gore bumper sticker with the words "Bush Sucks" on it;
- Desk drawers locked that, when opened, contained messages disparaging President Bush;
- Gore bumper sticker stuck to the inside of copy machine;
- Writing on and in desks that reads "W happens," "Hail to the Thief," and "GET OUT."
- Sticker inside a filing cabinet that reads "jail to the thief";
- Lamp placed on chair (observed before cleaning staff entered office);
- Pictures and other objects placed in front of doors (observed before cleaning staff entered office); and
- Desk drawers turned over on the desk and on the floor (observed before cleaning staff entered offices).

Now on p. 19.

36. **PAGE 23.** The GAO states that "it was unknown whether other observations, such as broken furniture, were the result of intentional acts and when and how they occurred."

While that may be true with respect to a few pieces of the furniture, that is not a reasonable conclusion with respect to other items. For example, in our view, it is not plausible that a key was broken off accidentally in the lock of a cabinet, the key was left hanging by a thread in the lock, and, when opened, a Gore bumper sticker with the words "Bush Sucks" on it was prominently displayed. Nor, in our view, is it reasonable to conclude that desk drawers were accidentally locked and just happened to contain two pieces of paper with anti-Bush statements displayed inside. It is also not plausible to think the cleaning staff completely broke off the backs and legs of multiple chairs within the same office, and then left that furniture in the offices for the new occupants. And it would certainly be odd behavior, in our view, for occupants of these offices to have broken those chairs through normal wear and tear and to have left those chairs in the office – unrepaired – for some period of time. Likewise, the nature of some of the damage – *e.g.*, two seat cushions slit in an identical manner on apparently new upholstery – indicates that it was not accidental. And the GAO's conclusion that the furniture damage could have been accidental fails to take into account the testimony of one employee who served during the Clinton Administration and told the GAO that some of the upholstered furniture that she saw damaged during the transition looked "pretty good" when she visited the same offices weeks and months earlier.

Similarly, it is not reasonable, in our view, to conclude that the furniture was overturned unintentionally. *First*, most of the witnesses observed the overturned furniture *before* the cleaning staff or new occupants entered the rooms. *Second*, it is not plausible to think that cleaning staff would have upended extremely heavy furniture in the manner described by the witnesses:

- At least two "desks turned over" in the Advance Office (observed by employee with 29 years of service in the White House)
- Desks and credenzas turned on their sides (observed by two witnesses)
- Coffee table standing on end, sofa upside down, and tables turned over in the Advance Office
- In the Counsel's Office, in each of the three offices and the secretarial space, almost every desk was overturned – "at least one desk or table in each room"
- "Couple desks on side" and a "couple of chairs" turned over on the first floor of the EEOB (observed by employee with 31 years of service in the White House)
- Sofa overturned with broken legs

In fact, the GAO was told by two employees of the GSA that cleaning staff would "not move" large pieces of furniture in this fashion, and none of these things would happen in the normal course of "moving" out of an office.

Likewise, we know that the removal of at least some of the labels was an intentional act, occurred early on January 20, and outgoing staff members were almost certainly responsible. The employee who oversaw White House telephone services from 1973 to 2001 told the GAO that some of the missing telephone labels "were replaced early on January 20 – before noon," but were found "missing again later that day."

Now on p. 36.

37. **PAGE 28.** The GAO writes: "Staff we interviewed told us that they saw evidence of damage, vandalism, or pranks on or after January 20, 2001, when they started working in the White House complex." This statement is misleading for two reasons. *First,* it suggests that all observations were made by staff who "started working in the White House complex" "on or after January 20, 2001"; in fact, many, if not most, of the observations were made by employees who worked in the complex long before Inauguration Day. *Second*, the statement suggests that the staff members saw evidence of damage only "on or after January 20, 2001"; in fact, many observations were made on January 19, 2001. Therefore, to be accurate, this sentence should read: "The staff we interviewed, many of whom worked here during the Clinton Administration, told us that they saw evidence of damage, vandalism, or pranks shortly before, on, and shortly after January 20, 2001."

Now on p. 36.

38. **PAGE 28.** The GAO repeats a statement made on page 23 that, although "[i]ncidents such as the removal of keys from computer keyboard, the theft of various items, the leaving of certain voice mail messages, signs, and written messages, and the placing of glue on desk drawers clearly were done intentionally," the GAO "generally could not make judgments about whether [other observations] were acts of vandalism because [it]

did not have information regarding who was responsible for them, when they occurred, or why they occurred." Again, we respectfully disagree.

The GAO's statement is categorical and speaks of an unwillingness to make any "judgments" about the observations. But the GAO certainly "could" make a judgment about whether at least some – if not most – of the observations were acts of vandalism. As explained in Specific Comment Nos. 35 and 36, the GAO's list of "clearly intentional" acts is under-inclusive, and the GAO had considerable "information regarding who was responsible for [other incidence of damage], when they occurred, or why they occurred." The GAO, it seems, has simply decided to ignore that evidence. It is simply not credible, in our view, for the GAO to claim that it cannot make a judgment about the incidents listed in Specific Comment No. 35.

In addition, we believe the GAO should report the views of many current staffers (including employees who served during the Clinton Administration) who said that, based on their firsthand observations, the damage appeared to have been "deliberate," "purpose[ful]," and "intentional." For example, one employee who has worked in the White House since June, 1998 told the GAO that the missing phone labels "must have been intentional," and another employee said that the damage done to a desk in Room 102 was "clearly" intentional and "not just wear and tear." A third person told the GAO that the broken file cabinet looked "deliberate." And two others (one of whom has observed five White House transitions, the other of whom has worked at the White House since 1998) said that, in their view, people had "deliberately" trashed their offices. An employee who worked at the White House from August 1999-August 2001 likewise told the GAO that the condition of 30-40 NSC rooms "was intentional, not accidental." Two other employees (one of whom has worked at the White House since 1971) also told the GAO that some of the "trashing" was "intentional." A Bush Administration official said that the conditions he observed were "more than wear and tear." And an employee who has worked in the White House since 1973 said it looked like the prior occupants had "purposely trashed the place."

By including these sorts of statements, the GAO would not only be providing the reader with "information needed to . . . promote an adequate and correct understanding of the matters reported,"[15] the GAO would also then be treating statements made by current and former staff alike. As drafted, the report contains the views of "[f]ormer Clinton administration staff" on whether the observed acts were intentional. *See*, *e.g.*, Report at 8 (Former Clinton administration staff said that some furniture was broken, "but not intentionally"); Report at 46 ("The former senior advisor for presidential transition questioned whether as many as 60 keyboards could have been intentionally damaged. . . ."); Report at 83 ("[F]ormer employee said that she saw telephone lines pulled out of walls [in the 1993 transition] and that they appeared to have been pulled out intentionally."). But the GAO fails to report the views of the current staff members regarding precisely the same issue.

[15] Government Auditing Standard 7.51.

Now on p. 37.

39. **PAGE 29.** We disagree with the GAO's statement that, "[i]n the overwhelming majority of cases, one person said that he or she observed an incident in a particular location." According to our records, in many (if not most) cases, more than one person reported seeing the same incident in the same location. Indeed, the GAO reached that conclusion in its April 2002 preliminary draft report, where it stated (on page 22) that "[s]everal people observed most incidents; however, in a few cases, only one person observed them." The observations have not changed; we do not know why the GAO's conclusion has.

Now on p. 37.

40. **PAGE 29.** The GAO states that, " [i]n some cases, people said that they observed damage, vandalism, or pranks in the same areas where others said they observed none, sometimes only hours apart." In our April 26 comments on the GAO's preliminary draft, we explained that, without a description of the specific instances where one current staff member recalled seeing something and another expressly disavowed seeing the same thing, it was impossible to know whether the apparent conflict in testimony could be reconciled or whether the GAO's statement is factually accurate. We also complained that this vague sentence provides no indication of how many such conflicts existed or what types of incidents are involved.

The GAO provided us with only two specific instances to which this sentence refers. The first example was an observation by two individuals – a Bush Administration official, and an employee who has observed five prior transitions -- of overturned furniture in the Counsel's Office suite (Room 128), which another person claimed could not be reconciled with a third person's alleged statement that he observed no overturned furniture in the same office. *First*, according to our interview notes, when the GAO asked the third person (who has worked in the White House for 33 years) specifically about Room 128, and whether he had observed overturned furniture in that office, he told the GAO that he had "no specific recollection of going into that room." *Second*, this person told the GAO, during both interviews with him, that he entered rooms in the EEOB between approximately midnight and 2:30 a.m. on January 20, at which time his attention was diverted to the West Wing. This person also told the GAO, during his first interview, that when he entered the Counsel's Office, "there were still people working" there. (This is consistent with the testimony provided by the prior occupants of that office, who said they left the EEOB close to noon on January 20.) Consequently there is no conflict between this person's recollection and that of the other two individuals, who said that they did not enter Room 128 until after noon on January 20. This person had no specific recollection of entering that office and, even if had recalled seeing no overturned furniture, he would have made that observation roughly 12 or more hours before the observations of the two other individuals, leaving plenty of time for someone to overturn furniture.

The second example that the GAO provided was an observation by an employee who has observed five prior transitions, of a broken glass top and files on the floor in the Advance Office suite, which the GAO claims is inconsistent with "other staff," who "said they didn't see that." While again, the GAO has not identified who offered conflicting testimony, this employee's observations, which he made around 12:15 p.m. on January

20, are entirely consistent with another employee's recollection that he saw 5 or 6 broken glass tops when he surveyed the first few floors of the EEOB shortly after noon on January 20. While current staff who occupy the Advance Office may not have seen the broken glass top or dumped files, that would not be surprising since they did not enter the building until much later, allowing time for the broken glass and files to have been removed.

Thus we are aware of no instance where there is a direct conflict where one person said they observed damage in a location where others observed none.

Now on p. 38.

41. **PAGE 31.** The GAO writes: "Six EOP staff told us that they observed a total of 5 to 11 missing office signs. . . ."

- Four of the "[s]ix EOP staff" members are employees of the OA and served here during the Clinton Administration. A fifth employee, who worked for the White House Office, also served during the Clinton Administration.

- One of the employees told the GAO that a former member of the Counsel's Office during the Clinton Administration told her that he too observed two missing brackets on the morning of January 20, 2001.

Now on p. 38.

42. **PAGE 31.** The GAO continues:

> These observations included an office sign that an EOP employee said that she saw someone remove on January 19 outside an office in the EEOB. The EOP employee said that the person who removed the sign said that he planned to take a photograph with it and that she reported the incident to an Office of Administration (OA) employee. Further, the EOP employee said that the person attempted to put the sign back on the wall, but it was loose.

- This statement implies that the individual who pried the sign off the wall intended all along to put the sign back. In fact, it was only when he was confronted by an OA employee that the individual claimed that he wanted to take a photograph with it and tried to put the sign back. This employee does not believe that the volunteer intended all along to return the sign, as the GAO's sentence suggests.

- The GAO fails to mention that the same employee also said that a former member of the Clinton Counsel's Office told her that he saw that the sign was missing at some point during the night of January 19, 2001.

Now on p. 39.

43. **PAGE 31.** The GAO fails to mention in its discussion of missing office signs that a facility request form, dated April 19, 2001, requests the "replacement of frames & medallions" on four rooms.

Now on p. 38.

44. **PAGE 31.** We disagree with the GAO's statement that "[f]our EOP staff said they saw a total of 10 to 11 doorknobs, which may have been historic originals, were missing in different locations." As explained above (in Specific Comment No. 19), the GAO was told that 11 to 13 doorknobs were missing.

Now on p. 38.

45. **PAGES 31-32.** The GAO writes:

> A GSA planner/estimator who said he was in charge of repairing and replacing building fixtures in the EEOB, including office signs, medallions, and doorknobs, said he received no written facility requests made to GSA for replacing missing office signs, medallions, or doorknobs during the transition. He said that the February 7, 2001, GSA facility request was not to replace a missing doorknob, but to repair one that had a worn-out part. He also said that over the past 20 years, doorknobs have been found missing about a half-dozen times in the EEOB, and not only during transitions. In addition, he said that medallions are difficult to remove and that a special wrench is needed to remove them from an office sign.

First, if the GAO says that this GSA employee "said he received no written facility requests made to GSA for replacing missing office signs, medallions, or doorknobs during the transition," it is important that the GAO also say:

- there is, in fact, a work request, dated April 19, 2001, for "replacement of frames & medallions" on 4 rooms, as well as the February 7 work request to "put . . . on" a doorknob;
- An employee of the OA said he provided a written request (although perhaps not on a facility request form) to the GSA for the replacement of name brackets and medallions;
- An OA manager who has worked at the White House since 1971 recalled telling the GSA to replace missing knobs, brackets, and medallions and asking the GSA to check all signs and to take corrective actions; and
- A WHO employee told the GAO that the GSA noted that the office sign on Room 457 was missing when the GSA did a survey of the rooms.

Second, we again ask that the GAO note that the employee's recollection that the doorknob was repaired (not replaced) is inconsistent with the facility request form and the recollection of at least three current staff members, including the individual who prepared the facility request form.

Now on p. 39.

46. **PAGE 33.** GAO states that "[t]wo EOP staff told us that 9 to 10 television remote control devices were missing from two offices."

- Here, the GAO conflates two separate reports – one the disappearance of five or six television remote controls from the OVP; the other the disappearance of approximately five remote controls from various offices throughout the correspondence suite – for a total of 10 to 11 missing remote controls. We believe that the GAO should discuss these incidents separately.

- The employee who reported the remote controls missing in the Correspondence Office, worked for the Correspondence Office during the Clinton Administration. This is an important fact because this employee's prior tenure with the Clinton Administration placed her in a position to know if remote controls were in the rooms before the transition.

Now on p. 41.

47. **PAGE 35.** The GAO says that "the OA associate director for facilities management estimated it will cost about $350 to make a replica of the presidential seal that was reported stolen. . . . We did not obtain any information about the possible historic value of the seal that was stolen." That is untrue. The GAO was told, in writing, that the $350 purchase price would not purchase an exact replica of the brass seal that was stolen; that seal was purchased in the mid-1970s, and is no longer available. Rather, the $350 would purchase a plastic-type casting.

Now on p. 42.

48. **PAGES 35-36.** The GAO begins its section on "Comments by Former Clinton Administration Staff," with the following statement:

> The former director of an office where an EOP employee told us that she saw someone remove an office sign said that an elderly volunteer in her office removed the sign from the wall on January 19, 2001. She said that she did not know why he had removed the sign. She said that she attempted to put the sign back on the wall, but it would not stay, so she contacted OA and was told to leave it on the floor next to the door. The former office director said that she left the sign on the floor, and it was still there when she left between 8 p.m. and 10 p.m. on January 19.

The GAO's report omits the fact that another employee, who also worked here during the Clinton Administration, told the GAO that she confronted the volunteer while he was removing the sign and that she contacted the OA immediately. We believe that it was the confrontation by this employee that explains why the volunteer ultimately did not take the sign, and hence that information should be included in the report. The GAO also fails to mention that a former member of the Counsel's Office said that the sign was missing during the night of January 19, 2001.

Now on p. 42.

49. **PAGE 36.** The GAO writes: "The former director of an office where an EOP employee told us that he observed two pairs of missing doorknobs said that the office had several doors to the hallway that at some time had been made inoperable, and he was not sure whether the interior sides of those doors had doorknobs." Even if it were true that the doorknob on the interior side of the door was missing, that fact would not explain this employee's observation that the door was missing both an interior and an exterior knob.

Now on p. 44.

50. **PAGE 38.** It is noteworthy that the GAO describes one individual as "[a]nother EOP employee who worked in that office during the Clinton administration and continued working there during the Bush administration for 5 months," but the GAO fails to note when and for how long a current staff member worked for the Clinton Administration. If tenure during both Administrations is relevant for the individual referred to above, wouldn't it also be relevant for current employees? Again, we simply ask that the GAO treat statements made by staff serving during this Administration just as the GAO treats the statements made by members of the former Administration – with the same kind of characterization and level of detail.

Now on p. 45.

51. **PAGE 40.** We believe the range provided by the GAO ("30 to 64 computer keyboards with missing or damaged . . . 'W' keys") understates the actual number of observations. According to our records, which we earlier provided to the GAO and the GAO did not dispute, staff members observed a total of 58 to 70 computer keyboards with missing or damaged W keys where a specific office or room was identified. In addition, staff members reported 150 keyboards with missing or damaged W keys, where the staff member did not associate the observation with a particular room or office. The detailed data are set forth in Specific Comment No. 10.

Now on p. 49.

52. **PAGE 40.** The GAO states that "[o]ne EOP employee said that she observed 18 keyboards with missing 'W' keys in an office suite. However, the manager of that office during the Clinton administration said that there were 12 keyboards in that office suite at the end of the administration." We do not understand why the GAO includes the second sentence in its section on "Observations of EOP and GSA Staff," instead of the section on "Comments By Former Clinton Administration Staff," where it would appear to belong.

Now on p. 45.

53. **PAGE 40 n.19.** In calculating its range of missing or damaged W keys where the observer identified a specific office or room, the GAO "included the observation of one EOP employee who said that she saw 6 to 10 keyboards missing 'W' keys in the West Wing." The GAO is referring to an individual who was an employee of the Office of Administration. We ask that the GAO use her title – Branch Chief for Program Management and Strategic Planning in the OA Information Systems and Technology Division – and note (as the GAO did in identifying the person referred to in Specific Comment 50) that this individual worked in that position during the Clinton Administration and during the first four months of the Bush Administration.

Now on p. 45.

54. **PAGE 41.** The GAO continues its discussion of damaged keyboards on page 41: "Five other EOP staff said that they saw a total of four keyboards with inoperable, missing, or switched keys; they said they were not the 'W' keys or could not remember which keys were affected."

- The GAO fails to mention that, in addition to these five additional observations, the OA's Associate Director for Information Systems and Technology Division reported that she observed "some glued down space bars."

37

- Also, for clarity, we recommend rewriting that sentence to read: "Five other current staff members said that they saw, in other rooms or offices, an additional four keyboards that had damaged keys (*e.g.*, a key or keys that were inoperable, switched, or missing). In these cases, either it was not the 'W' key that was affected, or the observer could not specifically recall the key or keys that were damaged."

Now on p. 45.

55. **PAGE 41.** The GAO continues:

> In addition, five EOP staff and one GSA employee said that they saw 13 to 15 'W' keys taped or glued on walls; four EOP staff said they observed piles of keyboards or computers or a computer monitor overturned; three EOP staff said that something was spilled on their keyboards; one EOP official said that she found 3 'W' keys in a desk; and one EOP employee said that his keyboard was missing at the beginning of the new administration.

- *First*, there were reports of at least 19-21 W keys taped or glued on walls (not 13 to 15), as follows:

W KEYS TAPED OR GLUED ON WALLS		
Location	**Observation**[16]	**No. for report**
EEOB – 128	W key "stuck over doorway"	1
EEOB – 197, 197A, 197B, 199, 199A, 199B	Saw on the walls "most" of the four keys that he observed missing from the keyboards	3
EEOB – 199	W key taped above door	1
EEOB – OVP 2nd floor	"some" W keys on walls**	2+
EEOB – 4th floor	10-12 Ws glued on the wall, over the doors and beside doors*	10-12
WW – including upper press secretary's office	"some keys" were taped above doorways" – for example, key was taped above door to press secretary's office suite***	2+
TOTAL		**At least 19-21**

*GSA employee, worked in the White House complex during Clinton Administration
**OA employee, worked in the White House complex during Clinton Administration
*** OA employee, worked in the White House complex during Clinton Administration

- *Second*, the GAO fails to mention that two other staff members also reported that they found W keys sitting next to keyboards and computers.

- *Third*, five (not four) staff members "observed piles of keyboards or computers or a computer monitor overturned" – including two WHO employees and three OVP employees -- in multiple locations in the EEOB.

[16] The comments in this table were, collectively, reported by 6 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

Now on pp. 45-46.

56. **PAGES 41-42.** The GAO's two paragraphs on the observations of computer personnel keyboards fail, in our view, to present the information that GAO received in a fair and objective manner. These paragraphs (like the entire discussion of damaged keyboards) appear to be designed to downplay the extent of the damage reported. The GAO writes:

> In addition to the EOP staff we interviewed about their observations regarding the keyboards, we met with EOP personnel who worked with computers during the transition. The OA associate director for information systems and technology provided us with documentation indicating that on January 23 and 24, 2001, the EOP purchased 62 new keyboards. The January 23, 2001, purchase order for 31 keyboards indicated that "[k]eyboards are needed to support the transition." The January 24, 2001, purchase order for another 31 keyboards indicated "[s]econd request for the letter 'W' problem." The OA associate director for information systems and technology said that some of the replacement keyboards were taken out of inventory for the new administration staff, but she did not know how many. In an interview in June 2001, this official said that 57 keyboards were missing keys during the transition and 7 other keyboards were not working because of other reasons, such as inoperable space bars.
>
> After later obtaining an estimate from the branch chief for program management and strategic planning in the information systems and technology division, who worked with computers during the transition, that 150 keyboards had to be replaced because of missing or damaged 'W' keys, we conducted a follow-up with the OA associate director for information systems and technology. In February 2002, the OA associate director for information systems and technology said that her memory regarding this matter was not as good as when we interviewed her in June 2001, but estimated that 100 keyboards had to be replaced at the end of the administration and that one-third of them were missing 'W' keys or were intentionally damaged in some way. She also said that of those 100 keyboards, about one-third to one-half would have been replaced anyway because of their age. This official said that she took notes regarding computers during the transition, but she was unable to locate them.

We offer the following specific comments:

- The GAO basically ignores the comments of the IS&T Branch Chief, by relegating her observation to the passing phrase, "[a]fter later obtaining an estimate from the branch chief . . . worked with computers during the transition that 150 keyboards had to be replaced because of missing or damaged 'W' keys" While the report dismisses her observations, this employee may, in truth, have been the one person in the best position to assess the total damage. This employee worked during the transition as the person with the cart who continually moved equipment around. She moved the broken and old items out of offices and made deliveries of replacement

equipment. She thus personally saw many of the damaged keyboards, which she transported to a temporary workroom in the EEOB. She did this throughout the Inaugural weekend and into the following week. She specifically recalls that, on one of her last deliveries of broken items to the temporary workroom, someone said that the count of damaged keyboards was up to 150.

- Contrast the GAO's treatment of the IS&T Branch Chief's observations with its discussion of another individual, the IS&T Associate Director. The latter individual told the GAO (but the GAO fails to mention) that she was "not focused on keyboards" during the transition and that she "personally saw" only about "10 keyboards" with missing W keys and only heard about others. Her estimates of the total number of keyboards damaged were based purely on inferences drawn from what others may have said. The GAO nonetheless details the IS&T Associate Director's statements, but not those of the IS&T Branch Chief.

- Even then, the GAO's reporting of the IS&T Associate Director's statements is incomplete. The GAO fails to mention, for instance, that the IS&T Associate Director said that she "saw personally" a concentration of missing W keys in the former First Lady's Office and in the OVP; that there were "some keyboards" where the space bar had been glued down; and that she was "very upset at the condition" in which some of the keyboards were left. In describing her second interview, the GAO fails to mention that it asked her to estimate the number of keyboards with missing W keys, even though the GAO had asked the same question during her first interview (seven months earlier) and the GAO did not remind her about the earlier inquiry. Nor did the GAO ask her whether she had any reason in February 2002 to question the accuracy of what she had said in June 2001.

- The GAO also fails to say that the IS&T Associate Director recounted what the contractor who packed the damaged keyboards, had said – namely, that there were "6 boxes of 20 keyboards or more with 'W' problems or space-bar problems." The GAO pressed the IS&T Associate Director to give her own estimate of damaged keyboards (again, even though she had told the GAO that she did not have personal knowledge about the keyboards), and she said that she "thinks around 100 were damaged," and "if there were 100," then roughly one-third might have had a "W" missing "or looked like something intentional."

- The GAO says that it "met EOP personnel who worked with computers during the transition." The GAO actually did not "meet" the IS&T Branch Chief; the GAO interviewed her by telephone. So we would recommend rephrasing the report to say that the GAO "spoke to" computer personnel. Also, the IS&T Associate Director and the IS&T Branch Chief are both former employees of the OA and both served during the prior Administration. The contractor referred to in the paragraph immediately above is employed by a contractor, Northrop Grumman.

- Finally, the GAO misquotes the IS&T Associate Director, when it states that she "also said that of those 100 keyboards, about one-third to one-half would have been

replaced anyway because of their age." The IS&T Associate Director told the GAO that the keyboards would have been replaced "*if they had not been changed out in 4 or 8 years*." It is not clear how many (if any) of the damaged keyboards were four years old or older. Therefore, it is not fair to say, and the IS&T Associate Director did not say, that "about one-third to one-half *would have been replaced* anyway; at most, they may have been.

Now on p. 47.

57. **PAGE 43.** The GAO says that "12 boxes of keyboards, speakers, cords, and soundcards were discarded," and "the contract employee who prepared that [excess] report said that she did not know how many keyboards were discarded, but that each box could have contained 10 to 20 keyboards, depending on the size of the box." We believe that the GAO should also explain that the contractor personally packed some of the boxes; and for those, she filled the box with keyboards and then used excessed speakers, cords, and soundcards to fill in gaps and ensure that the keyboards would not shift in the box.

Now on pp. 47-48.

58. **PAGE 44.** The GAO discusses the "costs" associated with the damaged keyboards:

> [W]e are providing cost estimates for each of the various totals provided by EOP staff. In reviewing the costs, it must be recognized that according to the OA associate director for information systems and technology, one-third to one-half of the keyboards for EOP staff, including the ones provided to EOP staff at the beginning of the Bush administration, may have been replaced every 3 or 4 years because of their age. Therefore, some of the damaged keyboards would have been replaced anyway.
>
> Below is a table showing the different costs that could have been incurred on the basis of different estimates that we were provided regarding the number of damaged keyboards replaced. The cost estimates were calculated on the basis of the per-unit cost of the 62 keyboards that the White House purchased in late January 2001 for $4,850, or $75 per keyboard.

This paragraph is followed by a table entitled "Estimated costs of replacing damaged keyboards." The table lists four estimates. The first estimate, for $2,250-$4,800, is based on the GAO's "range of 30 to 64 keyboards that were observed by EOP staff with missing or damaged keys." The second estimate, for $2475, is based on a statement that the IS&T Associate Director made that she "thinks around 100 were damaged," and "if there were 100," then roughly one-third might have had a W key missing "or looked like something intentional."

- The GAO's first estimate is simply wrong, in our view, because there were a total of 58 to 70 (not 30 to 64) keyboards with missing or damaged W keys where the witness specified the room or office where the keyboard was located. In addition, contrary to the GAO's statement in the table, that range does *not* represent "keyboards that were observed by EOP staff with missing and damaged keys." It represents only those where a room or office was specifically identified; it does not account for the

observations of other "EOP staff" (including the IS&T Branch Chief) who told the GAO about additional damaged keyboards.

- It is remarkable to us that the GAO would include the second cost estimate when the GAO itself acknowledges that the IS&T Associate Director's February 2002 estimate of missing and damaged keyboards was unreliable. *See* Report at 42 ("[the IS&T Associate Director] said that her memory regarding this matter was not as good as when we interviewed her in June 2001.). It is all the more peculiar given that the GAO is unwilling to engage in the same sort of cost estimation when it comes to estimating the cost of missing telephone labels, the repair and replacement cost for damaged furniture, and many of the other categories of reported damage.

- Also, as stated earlier, it is not accurate to represent that the IS&T Associate Director said "one-third to one-half of the keyboards for EOP staff, including the ones provided to EOP staff at the beginning of the Bush administration, may have been replaced every 3 or 4 years because of their age." the IS&T Associate Director told the GAO that the keyboards would have been replaced "*if they had not been changed out in 4 or 8 years*." Again, it is not clear how many (if any) of the damaged keyboards were four years old or older. Therefore, it is not fair to say, as the GAO does, that "some of the damaged keyboards *would have been* replaced anyway"; at most, they may have been.

Now on p. 49.

59. **PAGES 46-47.** We believe that the GAO has underreported the extent of the damaged furniture. As set forth in the table that appears above (Specific Comment No. 14), 17 current staff members reported a minimum of 31 to 33 pieces of damaged furniture – not counting the furniture that was defaced with writing and stickers.

Now on p. 50.

60. **PAGE 47.** The GAO writes that "[s]ix EOP staff . . . said that the locks on four desks or cabinet drawers were damaged *or the keys were missing* or broken of in the locks." We do not recall anyone complaining simply because "keys were missing" – which, in the ordinary case, would hardly be called damage, vandalism, or a prank. Rather, current staff members observed situations where it appeared that keys may have been purposefully broken-off in the locks or drawers were left locked intentionally and keys taken or discarded. For instance,

- Four individuals told the GAO that a key was broken off inside the lock on a file cabinet in Room 197B; the key was still there hanging in lock by metal thread; and, when a locksmith opened the cabinet, a Gore bumper sticker with the words "Bush Sucks" was displayed inside.

- A different employee told the GAO that his desk drawers were locked and no key was found; when the drawers were pried open, there were two pieces of paper inside that had "anti-Bush" statements.

This is another instance where the GAO's lack of detail prevents the reader from having a complete and accurate understanding of the damage that was found.

Now on p. 50.

61. **PAGE 47.** The GAO is mistaken when it says that "[f]ive EOP staff . . . said that they observed writing inside drawers in five desks. . . . We were shown the writing in four of the five desks." Again, the GAO has underreported the number of observations. The GAO has told us the names of the "[f]ive EOP staff" to whom it refers, each of whom, according to the GAO, observed only one desk with writing inside drawers. The GAO omits, however, that one of these employees showed the GAO a second desk in another room with writing on the pull-out tray that reads "W happens." Thus, five current staff members observed writing in or on *six desks*; not all the writing was "inside drawers"; and the GAO was shown the writing in *five of the six* cases. We also believe that the content of the messages is important because it indicates when and by whom the writings were made:

MESSAGES WRITTEN ON OR IN DESKS	
Location	**Observation**[17]
EEOB – 97	Writing in desk drawer reads "Take care of this place. We will be back in four (4) years! (1/93)"; shown to GAO
EEOB - 191A	Writing on a pull-out tray on desk that reads "W happens"; shown to GAO
EEOB – 191B	Writing in top left drawer of desk that reads "GET OUT"; shown to GAO
EEOB – 196A	Writing in top middle drawer of desk that reads "Hail to the Thief"; shown to GAO
EEOB – 125A	Writing in middle drawer of desk that wishes all "who work here" "good luck"; shown to GAO
EEOB – 1st floor	Writing in desk drawer

Now on p. 50.

62. **PAGE 47.** The GAO has underreported the number of pieces of furniture that were observed overturned. Our notes show (notes that were provided to the GAO and the GAO did not dispute) that five White House employees, one OA employee, and one GSA employee reported seeing *at least 14 to 19 pieces of furniture* that were on their sides or overturned, not the "8 to 10 pieces" that the GAO reports. The table detailing each observation of overturned furniture is found above in Specific Comment No. 17.

Now on p. 50.

63. **PAGE 47.** The GAO writes that "*four* EOP staff said they saw furniture that appeared to have been moved from areas where they did not appear to belong, such as desks moved up against doors." There were actually *five* such individuals – specifically, three WHO employees, one OVP employee and one NSC employee.

Now on p. 50.

64. **PAGES 47-48.** We believe that the GAO is mistaken when it reports that "[t]he director of GSA's White House service center said that furniture could have been overturned for a variety of reasons other than vandalism, such as to reach electrical or computer connections." Indeed, according to our notes, just the opposite is true: two GSA

[17] The comments in this table were, collectively, reported by 5 separate individuals. Each line reports an observation by one person. The GAO has been provided with the source of information for each observation.

managers told the GAO that cleaning staff would "not move" large pieces of furniture in this fashion, and none of these things would happen in the normal course of "moving" out of an office.

Now on p. 51.

65. **PAGE 48.** The GAO's description of the "four to five desks found with a sticky substance on them" is incomplete.

- *First*, it is unclear from the GAO's description that the vandalized desks were in the Vice President's West Wing office area and included the Vice President's own desk.
- *Second*, the "sticky substance" was a thick layer of an oily glue-like substance (which one observer described as something like a mixture of Vaseline and glue).
- *Third*, the substance was smeared on the bottom of the middle drawer of the desks. Consequently, when someone sat at the desk the substance would get on the person's legs or, when you tried to open the drawer (which had no handles) it would get on your hands. (In fact, one employee of the Office of the Vice President told the GAO that the substance got on her pants.)
- *Fourth*, this OVP employee also told the GAO that, on her desk, the substance was smeared all over the top of the right pull-out tray of the desk, as well as under her middle desk drawer. A second OVP employee likewise told the GAO that the substance was on her desk's pull-out tray, as well as under her middle desk drawer.
- *Fifth*, an OVP employee and two OA employees said that the desk-drawer handle on at least one of the desks was missing, and one of the OA employees said that the handle was found inside the drawer along with more of the glue substance.
- *Finally*, the substance on some of the desks was first discovered between midnight on January 19 and noon on January 20, 2001.

We believe this additional information is relevant and should be included in the GAO report in order to promote an adequate and correct understanding of the matters reported. *See* Government Auditing Standard 7.51.

Now on pp. 51-52.

66. **PAGE 48.** The GAO's list of "[d]ocumentation relating to the observations" of damaged furniture is incomplete. A facility request form states that one named employee "[n]eeds key to lateral file cabinet. Cabinet is locked." Facility Request No. 56695 (Jan. 29, 2001).

Now on p. 52.

67. **PAGE 49.** The GAO states that "[d]efinitive information was not available regarding when the furniture damage occurred; whether it was intentional and, if so, who caused it." While "definitive" proof may be lacking in some cases, that does not mean that the GAO (or the reader) must ignore both common sense and the overwhelming circumstantial evidence that does, in fact, indicate when the damage occurred, whether it was intentional, and who the likely perpetrators are.

- In some cases, the circumstances indicate that the damage was intentional, occurred shortly before the Inauguration, and the most likely perpetrators were members of the former Administration. For example,
 - With respect to the key broken off in a file cabinet in Room 197B, the key was found still hanging in lock by a metal thread (suggesting that the damage occurred not long before the transition) and, when the locksmith opened the cabinet, a Gore bumper sticker with the words "Bush Sucks" was prominently displayed inside (suggesting that the damage was intentional and done by a member of the former Administration).
 - Similarly, when the locked desk drawers were pried open in Room 103, two pieces of paper with anti-Bush statements were found displayed inside. Again, in our view, these facts indicate that the damage was intentional, occurred shortly before the transition, and was done by a member of the former Administration.
- In other cases, the person who observed the damage firsthand told the GAO that the nature of the damage itself, and the surrounding conditions, suggested that the damage was intentional and/or was done shortly before the transition weekend. For example,
 - One person told the GAO that the drawers on her desk "clearly" had been kicked-in intentionally and that it was "not just wear and tear";
 - A second person told the GAO that it was unlikely that the slit seats were the result of wear and tear because "the fabric otherwise looked new," and "it looked like someone had taken a knife or sharp object to the seat"; and,
 - A third person told the GAO that she saw damaged furniture in offices where things had looked "pretty good" weeks or months earlier.
- In still other cases, the nature of the damage suggests that it occurred shortly before the Inauguration because the offices' prior occupants and cleaning staff would not have let the damage remain in the office for long. For example, it is hard to believe that occupants would not fix or remove a bookcase with broken glass (with shards of glass still in the cabinet) or would allow chairs with broken legs and no backs to remain in an office suite for very long.

Now on p. 52.

68. **PAGES 49-50.** The GAO includes in its report statements from two employees – one who said that the damaged furniture that she observed was "not something intentional" and the second individual who said, according to GAO, that the four chairs with broken legs in her office were "not necessarily intentional."

- *First*, the second employee told the GAO that, while it was *possible* that the legs were broken through wear and tear, she thought it "unlikely that you'd keep a broken chair in your office" in that condition.

- *Second*, and more important, it is remarkable to us that the GAO includes in its reports the two statements by current employees who noted that particular damage was "not *necessarily* intentional," when the GAO has refused, despite our requests, to include statements from individuals (in some cases, the same individuals) who stated that damage which they observed appeared to be intentional. For instance,

 - One person told the GAO that the desk drawers were clearly damaged intentionally and not just wear and tear.

 - A second person said that "it was intentional, not accidental" with respect to the damage he observed in dozens of rooms.

 - A third person said that the broken key in the file cabinet looked "deliberate" to him.

 - A fourth person said that the missing phone labels "must have been intentional."

 - A fifth person said that the rooms he observed were "deliberately made to look like someone was communicating a message."

 - A sixth person said that some of conditions he saw looked "intentional."

 - A Bush Administration official who has observed a prior transition said the conditions of the offices was "more than wear and tear."

 - An employee who has observed five prior transitions said the offices looked like a "[l]arge number of people . . . deliberately trashed the place."

 - A seventh person told the GAO that the repairman who fixed the broken copy machine found a pornographic or inappropriate message when he pulled out the copier's paper drawer and that the repairman thought the paper drawers had been "intentionally realigned" so that the paper supply would jam.

 - An OA manager who has worked at the White House since 1971 said that some of the damage was the result of "intentional trashing."

 - An employee with over 30 years of service in the White House said it looked like the prior occupants had "purposely trashed the place."

Now on p. 53.

69. **PAGE 51.** The GAO's discussion of the "costs" attributable to the damage furniture fails to mention, or make any attempt to estimate, the costs incurred in replacing the furniture that was discarded because it was beyond repair. For instance, the GAO places no value on replacing the four chairs that an employee said had broken legs or the conference room chair that two other employees said had its back broken out. Likewise, the GAO made no attempt to determine how much it costs to reupholster chairs like the three that one employee told the GAO had slit seats. Nor did the GAO seek estimates on the cost of new glass tops for desks or to replace or repair a desk that had its drawers kicked in. The GAO has simply ignored these costs.

Similarly, the GAO has made no attempt to quantify the very real costs incurred in, for example, having movers remove damaged furniture and return with replacement furniture; having movers upright overturned furniture; having personnel (like the employees who found it, or the cleaning staff) clean the glue-like substance; or having personnel divert their time and attention to removing or fixing furniture that should have been found in working condition.

Now on p. 54.

70. **PAGE 52.** The GAO writes:

> The former manager of an office where two EOP staff told us they observed one or two chairs with broken or missing arms said that arms on two chairs in that suite of offices had become detached a year or two before the transition, that carpenters had tried to glue them back, but the glue did not hold.

We understand that the GAO is referring here to the former First Lady's offices – now the suite occupied by the Political Affairs office. At least six pieces of furniture were found damaged in that suite – some under circumstances that indicate the damage was intentional – in addition to the two broken armchairs. These additional reports of damaged furniture as well as other damage found in the same suite undermine the former manager's innocent explanation for the two chairs. And the former manager of the office apparently provided no explanation for the additional damage. However, because the GAO is unwilling to specify the locations where damage was found, and has not included in its report the details that indicate that the damage was intentional, reader are unable to assess for themselves the credibility of the former manager's explanation.

Now on p. 55.

71. **PAGE 53.** The GAO reports that "[t]hree former staff" of the Vice President's West Wing Office said they "were not aware of glue being left on desks" and that one of those employees "said that her desk was missing handles when she started working at that desk in 1998, and it was still missing them at the end of the administration."

- *First*, this explanation is inconsistent with one employee's observation that a handle was found *inside the desk with more of the oily glue-like substance on top of it*.

- *Second*, the reader again is unable to evaluate the credibility of the comments made by the former staff members because the report does not say where these vandalized

desks were located and the various other damage and pranks that were found in the same location. For example, it is hard to believe the former staff members' claim of ignorance when one also knows that longtime OA employees found, in the Vice President's West Wing office, "vulgar words" on a board; signs comparing the President to a chimpanzee on the walls and interspersed in the reams of paper in the printers, copy machines, and fax machines (observed by three employees); empty champagne bottles; and a basketball stuck on a lighted ledge (each observed by one employee).

Now on p. 55.

72. **PAGES 53-54 and n. 32.**The GAO is just plain wrong when it says that "[d]uring [its] initial interview with [an] employee, she said that the desks with burn marks and scratches were in a particular office" and [d]uring a follow-up interview . . . she said her observations pertained to an office suite, rather than a single office." She said no such thing. During both interviews, this employee explained, in no uncertain terms, that her observations were with regard to a suite of offices. Indeed, there can be no doubt because this employee *personally took the two GAO investigators into the two offices that she was referring to.*

Thus this employee's observations referred to multiple offices, and she did not say that the desks (and there was more than one) that she observed with scratch marks were in Room 160A, as the GAO apparently told the former occupant. Consequently, the former occupant's statement that "he did not recall seeing any scratches . . . *in his office*" is somewhat beside the point because it does not address the condition of desks in the other office. Unfortunately, the GAO's report leaves the impression that the former occupant's statement has directly rebutted an allegation that was made by a member of the current staff, when it does not.

Now on p. 56.

73. **PAGE 54.** The GAO's report details at length the testimonials of former staff members who said that they observed no overturned furniture:

> Three former occupants of a suite of three rooms where two EOP officials told us they observed a table and two desks overturned in the afternoon of January 20 said that no furniture was overturned in their offices when they left on January 20 and that their desks would have been difficult or impossible to move because of the weight of the desks. One of the three former occupants said that he was in his office until 3:30 a.m. or 4:30 a.m. on January 20, the second former employee said he was in his office until 10:00 a.m. or 11:00 a.m. on January 20, and the third former employee said that she was in her office until 11:50 a.m. or 11:55 a.m. on January 20.
>
> Regarding another office where two EOP officials told us that they observed overturned furniture, the former senior advisor for presidential transition said that he was in that office after 11:00 a.m. on January 20, and he did not see any overturned furniture. Similarly, the former head of

that office, who said that he left the office around 1:00 a.m. on January 20, said that he did not observe any overturned furniture.

- If the GAO is willing to include this detailed response by members of the former staff, we ask that the GAO also explain that two of individuals who observed the overturned furniture have worked in the White House complex for 29 and 31 years, respectively (including during the Clinton Administration), and that they both observed overturned furniture between approximately 1 a.m. and 5 a.m. on January 20. Likewise, a GSA employee, who served during the Clinton Administration, reported seeing overturned furniture. The GAO's report should also say that two other individuals observed overturned furniture at approximately 12:15 p.m. on January 20.

Now on p. 57.

74. **PAGES 55-56.** We believe that the GAO's data on cut and pulled cords is not accurate. Our records show that 5 staff members (4 White House and 1 OA) told the GAO that they saw a minimum total of 32 to 35 telephone lines or other cords either cut or pulled from the wall, as follows:

TELEPHONE AND OTHER CORDS CUT OR PULLED FROM WALL		
Location	**Observation**[18]	**Total no. of pieces**
EEOB	"total of 2 or 3 cords ripped from the walls" so that the "cables behind the jack were showing"	2-3
170	"phone cable ripped from wall"	
182 suite (Scheduling)	"phone line pulled out – jack and all"	
100-104	"some plugs" damaged	2+
1st Floor EEOB	"1 or 2" pulled cables or broken jacks that had been "yanked" **	0-2
2nd Floor EEOB	"couple" pulled cables or broken jacks that had been "yanked" **	2
WW or EEOB/probably in NEC offices	Phone wire cut	1
158/160A	Wires torn out of the wall	Approx. 25
TOTAL	5 observers	At least 32-35

**OA employee, worked in the White House complex during Clinton Administration

In addition, a facility request form shows that, on January 24, 2001, an employee asked for "electrical services" in her offices, and specifically asked for someone to "organize all loose wires." Facility Request No. 56662.

Now on p. 58.

75. PAGE 56. We believe that the GAO has again underreported the observations of phones with missing labels. Based on conservative estimates and calculations, 5 (not 4) staff members (2 White House employees, 2 OA employees, and 1 OVP employee) recalled observing in specific offices or rooms *at least 112-133* telephones that had no labels

[18] Each line reports an observation by one person.

identifying the telephone numbers (not "99 to 108"). A table setting forth our data appears above in Specific Comment No. 24.

Oddly, in calculating the number of missing labels in the OVP's second floor offices, the GAO states (at fn. 36) that it "included a range of 62 to 82," even though the GAO concedes that the "EOP indicated that there were 82 telephones in that office suite in January 2001." Why then would the GAO use a range of 62 to 82, particularly since we provided the GAO with an OA document that shows, as a conservative estimate, 82 telephones were in that suite?

In addition to the 112-133 missing labels where the observers identified specific rooms or offices, an employee with over 30 years of service in the White House told the GAO that he personally saw "more than 20" phones with missing labels; an OA manager who has worked at the White House since 1971 said that there were "many instances of missing labels on the phones"; and a third person (a new employee who coordinated telephone services during the first month of the Administration) said that the labels on the "majority of the phones" – or "roughly 85 percent" of the phones – in the EEOB and the White House had been removed or contained incorrect numbers. If the GAO is willing to include the OA telephone services coordinator's personal observation that "she . . . observed 18 telephones that were missing number labels," we believe the observations of these other telephone and facility officials should also be included, and described accurately, in the report.

The GAO says that the new employee who coordinated telephone services during the first month of the Administration "estimated that 85 percent of the telephones in the EEOB and the White House [or approximately 594 telephones] were missing identifying templates *or did not ring at the correct numbers*." She actually said that she found that labels on the "majority of the phones" – or "roughly 85 percent" of the phones – in the EEOB and the White House had been removed *or contained incorrect numbers.*

The GAO also downplays a critical fact about the missing phone labels. An employee who worked as White House Director of Telephone Services for 29 years told the GAO that "[c]ertain [telephone] labels were replaced early on Jan. 20 – before noon," but the labels were found "missing again later that day." In our view, this fact shows that no innocent explanation exists for at least some of the missing labels; their removal was an intentional act, apparently by members of the former Administration.

Now on p. 58.

76. **PAGE 57**. We believe that the GAO has underreported the number of telephones that were forwarded and reforwarded to ring at different telephones throughout and between the EEOB and West Wing. As set forth in the table (*see* Specific Comment No. 26), seven White House staff reported that roughly 100 telephones were forwarded to ring at other numbers.

We do not understand why the GAO treats the observations of the employee who coordinated telephone services during the first month of the Administration differently from the other observers. As the GAO concedes, this employee's sole responsibility

during the first month of the administration was to address telecommunications problems and, in particular, to work as the "middleman" between the incoming staff who reported the problems and the telephone contractors and personnel who repaired them. This employee told the GAO that she "tried to go into every physical space" in the West Wing and the EEOB "to survey phones." Thus, her observations are as competent, if not more competent, than the other observations are. *See* Government Auditing Standard 6.54(f) ("Testimonial evidence obtained from an individual who . . . has complete knowledge about the area is more competent than testimonial evidence obtained from an individual who . . . has only partial knowledge about an area.").

Finally, the GAO fails to mention that this employee told the GAO that the Chief of Staff's phone was forwarded to ring in a closet. This is, in our view, another important (but omitted) fact because it shows that the phones were not forwarded for legitimate business purposes.

Now on p. 59.

77. **PAGE 57.** In reporting on telephones that were unplugged and/or piled up, the GAO fails to state *25 or more offices in the EEOB* had phones piled up or unplugged. Nor does the GAO explain that one of the observers was an employee who has supervised White House telephone services for more than 30 years. Given his more than 30 years of experience managing telephone services in the White House complex, this individual's observation is particularly noteworthy. In addition, since this individual identified the unplugged phones as an example of the vandalism, damage, or pranks that he observed while surveying the EEOB on January 19 and the early morning of January 20, it is clear that the phones were not unplugged by the telephone services personnel or by the cleaning staff, who had not yet entered these rooms. We believe that this information is important and, in its absence, the report is incomplete. *See* Government Auditing Standard 7.51 ("Being complete requires that the report contain all information needed to satisfy the audit objectives, promote an adequate and correct understanding of the matters reported, and meet the report content requirement.").

The information is particularly important because the GAO states on page 63 that "[t]he former manager of an office where an EOP employee told us he observed telephones that were unplugged said that no one in that office unplugged them" and "[a] former Clinton administration employee in another office where EOP staff told us they observed telephones that were piled up said that there were extra telephones in that office that did not work and had never been discarded." Since the GAO never mentions that there were observations of unplugged and piled phones in 25 or more offices, the reader does not know that the comments of the former Clinton administration employees, even if true, explain what happened in only 2 of 25 (or more) offices. Thus, the reader has no basis for placing the comments of the former employees in context, nor for understanding that the former employees apparently have no explanation for the remaining observations.

Now on p. 59.

78. **PAGE 57.** In one of its more dramatic understatements, the GAO writes: "Two EOP staff said that they found telephones that were not working." Again, because of the GAO's failure to include important details, it has dramatically downplayed the extent of the problems observed. For instance, an individual who is employed by the OA and

worked here during the Clinton Administration told the GAO that there was "*no working phone on south side of building*." Since there are a minimum of 26 offices on the south side of the first floor of the EEOB, each of which would contain *at least* one phone – and likely many more than that – the problem with non-working phones was extensive.

Now on pp. 61-62.

79. **PAGE 58.** The GAO writes: "The EOP provided documentation summarizing telephone service orders closed from January 20, 2001, through February 20, 2001, containing 29 service orders that mention labels; 6 of the 29 service orders were for work in offices where telephone labels were observed missing. All of the 29 service orders mentioning labels were part of orders for other telephone services. In discussing these documents, the OA telephone service coordinator said that the requests for labels did not necessarily mean that the telephones had been missing labels with telephone numbers. She said that a new label might have been needed for a new service, such as having two lines ring at one telephone." With all due respect, that statement is false.

- *First*, the GAO *never* "discuss[ed]" the closed order list with the OA telephone services coordinator. The GAO never showed her the document, nor expressly discussed its contents with her. While the GAO did ask her whether a request to label a telephone *always* meant that the label was missing (and she rightly said that it did not), the GAO did not ask her about the document, any particular order on that list, or the labeling that occurred during the first few days of the Administration.

- *Second*, the GAO's suggestion that something *other than* missing labels precipitated the request for new labels might be plausible if the GAO has nothing to consider except the closed order list. But that is not the case. Here, the GAO concedes that there were observations of *more than 100 missing labels* during the first days of the Administration. Under those undisputed circumstances, it is beyond doubt that the requests to "PLACE BUTTON LABEL[S] ON SET" were to replace the missing labels.

- *Third*, the closed order list does more than "mention labels." If the GAO provided adequate detail in its report, the reader would learn that the document shows, for example:

 - On Monday, January 22, 2001, a telephone tech was asked by the OVP because the phones "NEED BTN [button] LABELS, TECH TO LABEL SETS." The tech billed "4HRS" (4 hours) on this order. TSR No. 01010195.

 - On January 31, 2001, a tech was called to Room 273 of the OVP because, among other things, the phones "NEED BTN [button] LABELS TYPED, PLACED." The tech billed "2HRS" on this order.

 - On February 5, 2001, a tech was called to Room 200 because the phones "NEED LABELS PLACED ON SETS." The tech billed "2HRS" on this order.

- On February 9, 2001, a tech was asked to "REPROGRAM [phone] IN ROOM 276 EEOB, [and] PLACE BUTTON LABEL ON SET." The tech billed "1HR" on this order.

- Also on February 9, a tech was asked to "REPRGRM [phone] in RM 279 EEOB, . . . [and] PLACE LABEL ON SET." The tech billed "30MINS" to this order.

- On January 29, 2001, a tech was called to Room 18 to, among other things, "REPLACE LABEL." The tech billed "1HR" to this order.

- On February 8, 2001, a tech was asked to "REPRGM RM 148 . . . NEED LABEL PLACE." The tech billed "30MINS" to this order.

- On January 30, 2001, a tech was called to Room 113 because the occupants "NEED LABEL PLACED ON SET BY TECH." The tech billed "1HR."

- On February 3, 2001, a tech was called to Room 100 to "PLACE BTN [button] LABEL." The tech billed "1HR."

- In *six* separate service orders on February 3, 2001, a tech was asked to "REPROGRAM" phones in the Room 100 suite and "TO PLACE LABEL ON SET." TSR No. 1020330; *see also* TSR Nos. 1020325 ("NEED LABELS PLACED ON SET"), 1020328 ("NEED BTN LABELS"), 1020329 ("NEED LABELS"), 1020331 ("NEED LABELS PLACED ON SET"), 1020340 ("NEED LABELS PLACED ON SET"). The tech billed "1HR" on each service order.

- On February 5, 2001, a tech was told that the occupants of Room 135 "NEED LABEL PLACED ON SET." The tech billed "1HR" for this order.

- Also on February 5, 2001, a tech was asked to "REPROGRAM SET [in] ROOM 137" and "PLACE LABEL ON SET." The tech billed "2HRS."

- On February 3, 2001, someone in Room 131 asked a tech to "PLACE LABEL ON SET." The tech billed "1HR."

- In a separate service request on February 3, 2001, a tech was asked to "REPROGRAM IN ROOM 137 EEOB" and "PLACE LABELS ON SET." The tech billed "1HR."

- On February 3, 2001, a tech was told that the occupants of Room 154 "NEED BUTTON LABEL," among other things. The tech billed "1HR" to this order.

- On February 5, 2001, a tech was told that "LABELS ALSO NEEDED" in a Presidential Personnel Office. The tech billed "1HR" for this order.

- On February 3, 2001, a tech was asked to "REPROGRAM [a phone] IN RM 131" and "PLACE LABEL ON SET." The tech billed "1HR."
- On February 2, 2001, a tech was asked to "REPROGRAM IN ROOM 184 EEOB" and "PLACE LABEL ON SET." The tech billed "1HR."
- On February 8, 2001, a tech was told that the occupants of Room 87 "NEED LABELS PLACED ON SET." The tech billed "1HR" on this order.

- *Fourth*, the GAO was provided – but ignores – many of the individual work orders (so-called Telecommunications Service Requests (TSRs)) that are summarized on the closed order list. The TSRs are important because they provide additional information about the need to label the telephones and because, in some cases, they identify additional requests to place labels on telephones that are not referenced on the closed order list. A sampling shows:
 - TSR No. 01010183: "NEED Button labels typed. Tech to label sets."
 - TSR No. 01010184: "Room[s] 274, 272, 284, & 286. Program phones . . . NEED Button labels typed. Need tech to place labels on sets."
 - TSR No. 01010185: "Room[s] 272 & 276. Program phones . . . NEED Button labels typed & placed on sets."
 - TSR No. 01010195: "Reprogram sets in Room 263, 265, 266, 267, 268, 269 and 271. NEED labels placed on each set."
 - TSR No. 01010206: Among other things, "NEED TECH TO PLACE BUTTON LABELS" on sets in Room 270.
 - TSR No. 01010306: Among other things, "Replace labels on all phones that removed" in Room 18.
 - TSR No. 01020463: "Need label placed on set" in Room 148.
 - TSR No. 01010342: "NEED Label placed on set" in Room 100.
 - Similarly the TSRs indicate, in some cases, where a staff member has reported a phone that is not ringing when the number on the phone is dialed – that is, it has been forwarded. TSR No. 01020225, for example, says line "does not ring on set 6-7453."
 - Finally, TSRs exist for work – "including . . . relabeling" – performed on January 20 and 21, where individual work orders were often not completed. TSR No. 01010382 shows that, on Saturday, January 20, 2001, the techs worked 114 hours, at $113.88 per hour (time and a half), for a total of $12,982.32. On Sunday,

January 21, 2001, the techs worked 78.5 hours, at $151.84 (double time), for a total $11,919.44.

Now on p. 60.

80. **PAGES 58-59.** The GAO has failed in its discussion of obscene and inappropriate voicemail greetings to include important information – information needed to promote "an adequate and correct understanding of the matters reported." Government Auditing Standard 7.51. The GAO fails to explain, for example, that the "[t]wo EOP employees" who heard the obscene voicemail messages were the White House Director of Telephone Services and the OA's Associate Director for Facilities Management, who together began touring offices and checking phones in the EEOB at approximately 1 a.m. on January 20. The first of these individuals estimated that he listened to "roughly 30 greetings," approximately 10 of which (or one-third) were "inappropriate." Of the 10 inappropriate messages, "approximately 5 or 6" (or roughly half) "were vulgar." (He also said that the White House telephone operators notified him that there were "obscene messages" on some of the voice-mail greetings.) This employee told the GAO that, after encountering this high ratio of inappropriate and vulgar messages, and *because of these messages*, a decision was made to take the entire system down. He also explained that he erased some messages around 1 a.m. on January 20, and *they were re-recorded later that day*. These are, in our view, important facts regarding the extent of the problem and the consequences thereof – namely, no one had voice-mail service for the first days and weeks of the Administration.

Now on pp. 61-62.

81. **PAGES 60-61.** The GAO's section on the "costs" associated with telephone problems is both inaccurate and incomplete. Based on extremely conservative estimates and straightforward documentation, the government incurred *at least* $6020 just replacing removed labels and rerouting the forwarded telephones. The evidence shows:

- *First*, the GAO received, *but fails to mention*, a blanket work order and bill for work – including "relabeling" work – performed on Saturday, January 20, 2001. The techs billed 114 hours at a rate of $113.88 per hour for each hour or fraction of an hour spent on a particular job. Consequently, if technicians spent only ten percent of their time relabeling phones and correcting forwarded telephones on Saturday (a conservative estimate given that there were between 112 and 133 specifically identified missing labels and roughly 100 forwarded phones), that means it cost the taxpayer $1,298 for one day's work replacing the removed labels and fixing the forwarded phones.

- *Second*, and similarly, the GAO acknowledges that it received a work order and bill for work – including "replacing labels on telephones" – performed on Sunday, January 21, 2001. But the GAO fails to estimate any costs associated with that work. The bill shows that the techs worked 78.5 hours that day at a rate of $151.84 per hour for each hour or fraction of an hour spent on a particular job. That means that, if technicians again spent only ten percent of their time relabeling phones and correcting forwarded telephones, the taxpayer incurred an additional cost of $1,192 for that day's work replacing the removed labels and fixing the forwarded phones.

- *Third*, the GAO fails to estimate the costs associated with replacing labels even where it was provided both individual work orders and a summary of orders that specifically identify the relabeling work performed and the amount of time spent on the job. Specifically, we provided the GAO with a document entitled "Orders Closed 1/20/01 Thru 2/20/01" that lists many orders (some of which are highlighted above) where a tech was asked to place one or more labels on telephone sets. For each of those orders, a "T&M" charge (time and materials) is identified in terms of hours and minutes. Those charges can be computed in dollars by multiplying the total number of hours of T&M charged times $75.92.[19] We do not understand why the GAO failed to perform this simple exercise, particularly given its willingness to provide cost estimates in the context of missing and damaged W keys. Had the GAO done the calculation, the reader would know that approximately $2201.68 was spent to replace labels on telephone sets, as set forth below:

 - On Monday, January 22, 2001, a telephone tech was asked by the OVP to "PROGRM PHNS PER MATT, NEED BTN [button] LABELS, TECH TO LABEL SETS." The tech billed "4HRS" (4 hours) on this order, for an estimated total cost of $303.68. TSR No. 01010183.

 - On January 31, 2001, a tech was called to Room 273 of the OVP because, among other things, the phones "NEED BTN [button] LABELS TYPED, PLACED." The tech billed "2HRS" on this order, for an estimated total cost of $151.84. TSR No. 01010386.

 - On February 5, 2001, a tech was called to Room 200 because the phones "NEED LABELS PLACED ON SETS." The tech billed "2HRS" on this order, for an estimated total cost of $151.84. TSR No. 01020071.

 - On February 9, 2001, a tech was asked to "REPROGRAM [phone] IN ROOM 276 EEOB, [and] PLACE BUTTON LABEL ON SET." The tech billed "1HR" on this order, for an estimated total cost of $75.92. TSR No. 01020225

 - On January 29, 2001, a tech was called to Room 18 to, among other things, "REPLACE LABEL." The tech billed "1HR" to this order, for an estimated total cost of $75.92. TSR No. 01010306.

[19] The White House Director of Telephone Services, and the on-site manager for AT&T, told the GAO that "the government pays only for the techs' 'chargeable time.'" If there is no work to do, the government incurs no cost. The White House Director of Telephone Services explained further that therefore costs would have been incurred in repairing labels because of incremental increases in the "work time" – *i.e.*, chargeable time. The AT&T manager also added that there is a minimum of one hour for each call (at a cost of $75.92 during normal hours), even if the work takes only 10 minutes to perform. Were there any doubt, it would have been eliminated by the documents the GAO received on closed telephone service orders and trouble tickets. Both documents clearly show that AT&T charges for time and materials (T&M) "AT REG. AND OT RATES," and each service order shows the amount of "T&M" attributed to that order.

- On January 30, 2001, a tech was called to Room 113 because the occupants "NEED LABEL PLACED ON SET BY TECH." The tech billed "1HR" to this order, for an estimated total cost of $75.92. TSR No. 01010342.

- On February 3, 2001, a tech was called to Room 100 to "PLACE BTN [button] LABEL." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020154.

- Also on February 3, 2001, a tech was called to Room 100 because the occupants "NEED BTN LABELS FOR SET." The tech billed "1 HR," for an estimated total cost of $75.92. TSR No. 01020156.

- In six additional and separate service orders on February 3, 2001, a tech was asked to "REPROGRAM" phones in the Room 100 suite and "TO PLACE LABEL ON SET." TSR No. 1020330; *see also* TSR Nos. 1020325 ("NEED LABELS PLACED ON SET"), 1020328 ("NEED BTN LABELS"), 1020329 ("NEED LABELS"), 1020331 ("NEED LABELS PLACED ON SET"), 1020340 ("NEED LABELS PLACED ON SET"). The tech billed "1HR" on each of the six service orders, for an estimated total cost of $455.52.

- On February 5, 2001, a tech was told that the occupants of Room 135 "NEED LABEL PLACED ON SET." The tech billed "1HR" for this order," for an estimated total cost of $75.92. TSR No. 01020075.

- On February 3, 2001, a tech was asked to "REPROGRAM SET [in] ROOM 137" and "PLACE LABEL ON SET." The tech billed "2HRS," for an estimated total cost of $151.84. TSR No. 01020099.

- On February 3, 2001, someone in Room 131 asked a tech to "PLACE LABEL ON SET." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020055.

- In a separate service request on February 3, 2001, a tech was asked to "REPROGRAM IN ROOM 137 EEOB" and "PLACE LABELS ON SET." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020168.

- On February 3, 2001, a tech was told that the occupants of Room 154 "NEED BUTTON LABEL," among other things. The tech billed "1HR" to this order," for an estimated total cost of $75.92. TSR No. 01020327.

- On February 5, 2001, a tech was told that "LABELS ALSO NEEDED" in a Presidential Personnel Office. The tech billed "1HR" for this order," for an estimated total cost of $75.92. TSR No. 01020360.

- On February 3, 2001, a tech was asked to "REPROGRAM [a phone] IN RM 131" and "PLACE LABEL ON SET." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020363.

- On February 2, 2001, a tech was asked to "REPROGRAM IN ROOM 184 EEOB" and "PLACE LABEL ON SET." The tech billed "1HR," for an estimated total cost of $75.92. TSR No. 01020132.

- On February 8, 2001, a tech was told that the occupants of Room 87 "NEED LABELS PLACED ON SET." The tech billed "1HR" on this order, for an estimated total cost of $75.92. TSR No. 01020160.

- *Fourth*, and even more perplexing, the GAO ignores the AT&T invoices ("Activity Reports") and individual works orders (TSRS) that we provided that show the *actual* charges incurred on particular orders. We have not attempted in preparing these comments to review all such invoices, but a sampling shows $1,328.60 in charges in addition to those listed above:

 - TSR No. 01010184 (request to "program phones" and "place labels on sets" in Rooms 272, 274, 284, and 286): $341.64.

 - TSR No. 01010185 (request to program phones and place labels on sets in Rooms 272 and 276): $341.64.

 - TSR No. 01010195 (request for, among other things, labels for sets in Rooms 263, 265, 266, 267, 268, 269, and 271): $341.64.

 - TSR No. 01010206 (request for, among other things, "tech to place button labels"): $303.68.

- *Fifth,* the GAO also can and should estimate, based on this data, how much it would cost to replace labels on 112-133 telephones (or, at least, on the 99 to 108 that the GAO concedes were observed missing) by estimating how much was charged per telephone and extrapolating that amount to account for the total number of missing labels.

- *Sixth*, the GAO suggests that it is unable to provide any estimate on the costs to repair the damaged phones because "the extent to which the service order that mentioned labels involved missing labels was not clear and all of the service order involving labels were part of order for other service." That is incorrect.

 - As we explained to the GAO, when a System Analyst (SA) performs work that does not require a technician to be dispatched to the office (*e.g.*, reprogramming a phone), there is no separate charge. If work requires a tech dispatch (*e.g.*, replacing a label), then there is a minimum charge of $75.92 for each hour or portion of an hour ($113.88 on Saturdays and $151.84 on Sundays), even if it

takes only minutes to perform the work. Therefore, for service orders that requested, for example, both a telephone to be reprogrammed and its label to be replaced, the *entire charge* is attributable to replacing the label. This is clear from the AT&T billing invoices (or "Activity Reports") that show that the cost associated with the work orders is for "LABOR CHARGES FOR EQUIP. MOVES/CHGS," and not for reprogramming expenses.

- In addition, for the service orders where the minimum charge of $75.92 was assessed, it is immaterial whether work in addition to replacing the label was performed; a charge of $75.92 would have been incurred for replacing the label(s) regardless of whether other work was performed within that first hour.

- Finally, the closed order list and the service orders do far more than "mention[] labels." *See* Specific Comment No. 79.

Now on p. 63.

82. **PAGE 62 n.42.** A footnote reads: "The director of GSA's White House service center said that there were 'any number' of reasons why problems could have been observed with telephone and computer wires besides having people cut them deliberately. He said, for example, that the cleaning staff could have hit the wires with the vacuum cleaners or computer staff could have been working with the wires." This statement would be relevant only if the cut and pulled wires were observed *after* the cleaning staff and the computer staff had entered the offices. But, in this case, the two staff members who reported the cords pulled from the walls observed the damage during the early morning hours of January 20, *before* any cleaning staff had entered the rooms and *before* the computer staff entered the rooms to archive computer data. Unfortunately, the readers of the GAO's report would not know this important fact – and therefore may have been misled by the GAO's footnote – because the GAO fails to include that detail in its report.

Now on p. 65.

83. **PAGE 64.** The GAO reports that "[the former senior advisor for presidential transition] also said that it would have been technically possible to erase voice mail greetings for most departing EOP staff without also deleting greetings for staff who did not leave at the end of the administration." We believe that, to present a fair and balanced report, the GAO must explain here that two current OA staff members – both of whom served during the Clinton Administration – disagree with the former senior adviser. One of the OA staff members, who has worked at the White House since 1971 and who worked closely with the former senior adviser and the transition team, told the GAO that a proposal to delete all voicemail greetings at the end of the Clinton Administration "was discussed," but they had decided not to do it "because it would have erased the greetings of all staff members," including the roughly 1,700 staff members who were not vacating the building. This OA employee further explained that it was his "'call' not to go ahead with the proposal," although the staff which included the former senior adviser was "aware of the decision." OA's Telephone Service Coordinator, likewise told the GAO that, until November 2001, the EOP's phone system did not have the capability to erase voicemails *en masse*; she explained that it was not until November 2001 that the EOP both had purchased the software and had performed upgrades to the switch that were necessary to allow voicemails to be deleted on other than a manual basis.

Now on p. 65.

84. **PAGE 64.** The GAO continues with the former senior adviser's comments: "This former official also said that some telephones were forwarded to other numbers for business purposes at the end of the Clinton administration. He said, for example, that some of the remaining staff forwarded their calls to locations where they could be reached when no one was available to handle their calls at the former offices." This explanation may sound plausible until you learn *how and where* the phones were forwarded. The Chief of Staff's telephone, for example, was forwarded *to a closet*. There could hardly be a legitimate "business purpose" for that. Yet, because the GAO has not provided the reader with details, like this one, about the current staff's observations, the reader does not have the facts to judge for herself the credibility of the former staffs' explanations. These omissions, in our view, result in a report that is woefully incomplete, and, as a consequence, a report that is arguably misleading and lacking in objectivity. *See* Government Auditing Standard 7.57 ("Objectivity requires that the presentation of the entire report be balanced in content and tone. A report's credibility is significantly enhanced when it presents evidence in an unbiased manner so that readers can be persuaded by the facts.").

Now on p. 66.

85. **PAGE 65.** The heading of the next section of the report reads "Fax Machines," even though the GAO discusses in that section damaged and tampered with fax machines, printers, and copiers. We believe that the heading should be revised to accurately reflect the content of the section.

Now on p. 66.

86. **PAGE 65.** The GAO is mistaken when it reports "*one* EOP official told us that he had seen *12 fax machines* with the telephone lines switched and another fax machine that was disconnected." Our notes shows that *two* employees told the GAO that they had observed fax machines that were "switched." An employee of the OA with over 30 years' service in the White House told the GAO that he saw "*at least a dozen* switched fax lines," and a different employee (who has almost 30 years' service) said that he too saw "faxes switched between offices." Thus, the GAO's sentence should read: "One OA employee and one White House employee told us that, during the night of January 19, they saw at least 12 to 14 switched fax lines."

Now on p. 66.

87. **PAGE 65.** The GAO reports on observations that "5 copy machines, printers, and copiers . . . did not work." But the GAO fails to include the details that show that it was not simply a case of an innocently broken machine. For instance, one individual told the GAO that the repairman who fixed the broken copy machine found a pornographic or inappropriate message when he pulled out the copier's paper drawer and that the repairman told the individual that he thought the paper drawers had been "intentionally realigned" so that the paper supply would jam.

Now on p. 66.

88. **PAGES 65 and 66.** The GAO states that "[t]wo EOP staff said they observed fax machines moved to areas where they did not appear to belong." This is another example where we think that the GAO should simply report what the staff member said – and not recharacterize it. One employee said that she saw some fax machines *sitting in the middle of the floor, unplugged*. In our opinion, unplugged fax machines do not "belong"

in the middle of the floor and thus the GAO's characterization that the fax machines were moved to areas "where they did not *appear to belong*" is overly charitable. Moreover, even if the GAO disagrees and believe that a fax machine *could* belong in the middle of the floor, that is a judgment that the reader should be allowed to make.

More important, by recharacterizing the observation, the GAO deprives the reader of the facts that he or she needs to judge the relevance and credibility of the comments made by former staff members. On page 66, the GAO reports that "[t]he former director of an office where fax machines were moved to areas other than where they had been installed said that a fax machine may have been pulled around a corner, but it was not done as a prank." But this explanation does not answer the charge: that multiple fax machines were placed in the middle of the floor, unplugged. Unfortunately, the reader would not know that because the GAO fails to provide the details needed to have a complete and accurate understanding of the matters reported.

Now on p. 66.

89. **PAGE 65.** The GAO fails to mention in its discussion of fax machines than an employee told the GAO that all printers and fax machines that she observed had been emptied of paper.

90. **PAGE 67.** The heading of the next section is "trash," which the GAO apparently equates with the statement on the June 2001 that the "offices were left in a state of general trashing." As noted above, in today's parlance, saying an office was "generally trashed" is not the same as saying it had "trash" in it. *See* General Comment No. 3. The existence of trash in offices was not, in our view, the problem; the problem was that many offices were trashed – and, as the observers told the GAO, it appeared that it was deliberately left in that condition. The GAO therefore should, in our view, revise its heading to read "Trashing of Offices."

91. **PAGE 67.** The GAO reports that "[t]wenty-two EOP staff and 1 GSA employee told us that they saw offices that were messy, disheveled, or dirty or contained trash and personal belongings left behind in specific offices or rooms." With all due respect, it is a gross understatement to say that the GAO was told that the "offices . . . were messy, disheveled, or dirty." We asked the GAO to accurately report what it was told, and not to recharacterize it. Had the GAO done so in this case, the reader would have learned about the following observations, among others:

"TRASHED" OFFICES (not including observations of damaged and overturned furniture or signs)	
Location	**Observation**[20]
91	Plant dumped in the middle of the floor *
100 and 102	Two pencil sharpeners thrown against wall: in Room 100, mark on wall where hit, shavings on floor, and broken sharpener lay on ground; in Room 102, shavings on floor and broken sharpener lay on ground (observed by two persons)
100-104	files and papers everywhere on the floor – not just overflowing trash cans
	"trash everywhere"
128B, 128C, 128D, and 128E	file drawers and desk drawers pulled out and the contents dumped on floor
128C	office was "trashed" and had a "malodorous stench"; all furniture piled in the corner
158 and 160A	"extremely trashed"; "out of the ordinary"; because of smell, all of the curtains and the carpeting had to be immediately replaced
160, 162, 164	Office was "filthy"; had to replace all furniture except one table and desk
170 or 172	Very dirty; "more than wear and tear"
173	"lots of trash"; small pieces of office equipment stacked one on top of another
177-189	"lots" of beer bottles and beer cans
	Offices "trashed out," even after GSA had been through once; "sizeable" holes in the walls
183	Beer cans thrown on top of 10-foot high filing cabinets and stuffed animal and a shoe lodged in the rafters
	Contents of large file cabinet units (measuring approx. 10' x 6' x 10') appeared to have been dumped on floor
1st floor EEOB	"extremely filthy"**
OVP	Lots of trash on the floors, food in desk drawers, pizza boxes in corner office, desks moved against doors
	"trashed"; supplies dumped on floor; "looked like people threw everything"
286	Soil spread across carpet

[20] The comments in this table were, collectively, reported by 23 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

330	Looked like office was "deliberately made to look like someone was communicating a message"; things in the desk dumped on top of desks; lamps were on chairs; pictures stacked on floor so you could not enter the room; etc.; "looked like when someone trashes a dorm room" ****
330 and 380	"clutter and mess over and beyond what you'd expect"; "would not have expected this under ordinary circumstances" ****
NSC offices	in 25% of the spaces vacated in NSC (30-40 rooms), saw "something that [he] didn't expect." *E.g.,* someone had spread holes from a hole punch all over the floor; a desk lamp was placed on a chair in the middle of the office; "papers strewn everywhere" *****
NSC offices	Trash was "dumped everywhere"; pictures were pulled off the walls, leaving holes*
Not identified	"most of the rooms were trashed" and "filthy" °
	Binders thrown everywhere and piles of paper
	"very unclean; trash strewn about; refrigerators full of mold." °°
	"tons and tons of trash"; binders piled over a copier; old food boxes
	"trash was everywhere"; "filth"; food and trash in desks – pizza, sandwiches, tuna fish, chips
	Offices were "trashed"; supplies and garbage all over; drawers open and on the floors °°°
	Lots of beer and wine bottles ***
	Looked like there were a "large number of people who deliberately trashed the place"
	"amount of trash was beyond the norm" for transitions °°°°
	Empty wine and beer bottles

*Employee of the President's Foreign Intelligence Advisory Board; worked here during the Clinton Administration
**GSA employee; worked here during the Clinton Administration
*** GSA employee; worked here during the Clinton Administration
****NSC employee; worked here during the Clinton Administration
*****NSC employee; worked here during the Clinton Administration
°OA employee; worked here during the Clinton Administration
°°OA employee; worked here during the Clinton Administration
°°° OA employee; worked here during the Clinton Administration
°°°° OA employee; worked here during the Clinton Administration

92. **PAGES 67-68.** The GAO's list of facility request forms that document the condition of the offices is incomplete. The documents that were provided include:

- A January 30, 2001, facility request form shows that Cabinet Affairs asked for someone to clean the carpet, furniture, and drapes in Rooms 160, 162, and 164. GSA charged $2,905.70 for that service. Facility Request No. 56713.

- A January 30, 2001, facility request form shows that an employee asked for the following services in the Advance suite reads: "Walls/moldings need patching and paint. . . . 1 – Need carpet vacuumed – is awful! 2 – Furniture cleaned and drawers

need vacuuming out. 3 – Drapery needs cleaning or replacement." Facility Request No. 56990.

- A January 25, 2001, facility request form shows that an employee asked that GSA clean the carpet, furniture, and drapes in Room 160A. Facility Request No. 56662.
- A February 17, 2001, facility request form shows that an employee asked for a "prof[essional] cleaning" in Rooms 154, 156, 157, 159, 160½ (or 160A). For that service, GSA charged $1,150.00. Facility Request No. 58355.
- A February 21, 2001, facility request form shows a request to clean the carpet in the former First Lady's suite (Rooms 100-104). Facility Request No. 58369.

Now on pp. 69-70.

93. **PAGE 70.** Although the GAO reports that "[t]he OA director said that the offices were in 'pretty good shape' by the evening of January 22," the GAO has refused, despite our request, to include others' observations on how long it took to get the offices in shape. Had the GAO done so, the reader would learn:

- The GAO asked the Director of White House Telephone Services when things were corrected, and was told that most things were cleaned up within 2 weeks, but "all the mess" was "not squared away until February."
- In response to the GAO's question regarding how long it took to get problems fixed, the on-site manager for AT&T explained that the problems "lasted at least a month."
- When the GAO asked an OA staff member with over 30 years' experience at the White House when the place was "cleaned up," he responded that "just the cleaning" was done "3 to 5 days" after January 20th.
- When the GAO asked an employee how long did it take to get the phones operational, she answered "[a]bout a week and a half. Three or 4 days to get people a working phone. To get people phone numbers took a week and a half."
- An employee told the GAO it took approximately "3 weeks" before things were "back to standard."

94. **PAGE 70.** The GAO states that "The OA associate director for facilities management said that about 20 offices were vacant before January 20. He said that it took 3 to 4 days after January 20 to complete the cleaning." That is not what this individual said.

- He said that there was "some list of offices that could have been cleaned before the 20th," and the list was given to a GSA manager. He further explained that there were "not a lot of offices on the list" – "maybe 20."
- He also said that it took "3 to 5 days" to complete "just the cleaning."

95. **PAGE 70.** The GAO also misquotes the same individual when it writes: "This official said that he saw some a limited amount of trash that appeared to have been left intentionally." The GAO asked this individual, "Was there intentional trashing?" And he responded yes, a "limited amount." Therefore again the GAO has mistakenly equated "trash" that was left behind with the "trashing" of offices.

96. **PAGE 70.** We believe that the GAO has again misquoted this individual when it reports that "[h]e also said that it would have taken an 'astronomical' amount of resources to have cleaned all of the offices by Monday, January 22." Rather, he said that they "could not have had enough people to clean it by the 22nd because [the offices were] dirtier than past transitions." Indeed, when the GAO asked him expressly, "Is it legitimate to think people could start working on Sunday," January 21, he replied, "yes, in my opinion, people should leave their offices in an orderly fashion." He explained that it was "realistic" to expect offices to be cleaned by Monday night, January 21.

Now on p. 70.

97. **PAGES 70-71.** Again the GAO improperly redefines the observations to simply a discussion of excessive "trash." But the observations were not so limited. The GAO reports that "[a White House management office employee] said that what he observed was probably a combination of some trash having been dumped intentionally and an accumulation built up over the years." We believe this employee's statement was far more direct and covered more than just "trash." The GAO asked whether the condition of the offices – which included, among other things, "filth" and trash, was "intentional or neglect," and the employee responded, "a combination."

Now on p. 70.

98. **PAGES 71 and 72.** In addition, the GAO should add similar statements by an employee who has worked at the White House since 1998, a second employee who has observed five prior transitions, a third employee (a Bush Administration official), and others who likewise told the GAO that it appeared that the offices were "intentionally" or "deliberately" trashed. The first of these individuals said that the NSC office was "deliberately made to look like someone was communicating a message." The second said that it looked like there were a "large number of people who deliberately trashed the place." And the Bush Administration official said the conditions he observed were "more than wear and tear." The fact that many observers concluded that the acts were intentional is important, because, if many people reached the same conclusion, it is more likely that the conclusion was correct and a reader will perceive the conclusion to be correct. In addition, since the GAO reports on page 72 that, "none of the 67 former Clinton Administration staff we interviewed who worked in the White House complex at end of the administration said that trash was left behind intentionally as a prank or act of vandalism," it is only appropriate that the GAO also report that many current staff members – including staff who worked for the Clinton Administration – believe otherwise.

99. **PAGE 71.** The GAO's discussion of the costs associated with cleaning the "trashed" offices is incomplete.

- The GAO fails to mention the January 30, 2001, facility request form (No. 56713) which shows that Cabinet Affairs asked for someone to clean the carpet, furniture, and drapes in Rooms 160, 162, and 164. GSA charged $2,905.70 for that service. As the GAO acknowledged earlier in its report (at page 12), this request involved an office that a White House Office "employee said was 'filthy' and worn and dirty furniture." That same employee, as well as others from her office, also told the GAO about significant damage to furniture in those offices, including a desk drawer with its drawer-fronts removed, chairs without legs, and a chair with its entire back broken off.

- The GAO could – but did not – determine how much time and money was actually spent paying the cleaning staff and how much time and money should reasonably have been spent (based on the amounts spent during past transitions or estimates provided by administrative staff). The difference in those amounts would provide a rough estimate of the costs attributable to the poor condition of the offices. We already know that the costs exceeded what was expected because the OA manager responsible for facilities management told the GAO that there was "lots of money that was spent that shouldn't have to be spent."

- Nor did the GAO include in its estimate of costs *all* of the facility request forms that show that the new staff had to request that carpets, furniture, and draperies be cleaned. While in some cases, the GSA pays for the costs associated with such cleaning (and hence no dollar amount appears on the form), actual costs exist and presumably could be estimated.

- If the GAO is unwilling to estimate these costs, we believe that it should at least say that additional costs exist, and that the GAO did not attempt to quantify them. And again, the problem was far more than simply "excessive trash that needed to be discarded," as the GAO reports.

Now on p. 71.

100. **PAGE 72.** Although the GAO is willing to report that [f]ormer Clinton administration staff generally said the amount of trash that was observed during the transition was what could be expected when staff move out of office space after 8 years," the GAO fails to mention that one employee, who also served during the Clinton Administration, told the GAO that what she observed "*was way beyond* what you'd expect to see in a large move"; she was "surprised" and "embarrassed" by the condition of the offices on Inaugural weekend; and she knew that the same offices were in pretty good shape during the weeks and months before the transition.

Now on p. 71.

101. **PAGE 72.** The GAO states that "[o]ne former employee who worked in an administrative office said that she did not observe much cleaning of offices before January 20, and she believed that GSA did not have enough supervisors and decision makers to oversee the cleaning." We previously told GAO that, if the report was going to include this comment, it should also state (either here or elsewhere in the report) how many cleaning staff were on duty and the hours they worked. Without that information,

we believe the reader has no basis for evaluating the comments made by the former staff. The GAO apparently refuses to provide this important information.

Now on p.71.

102. **PAGE 72.** The report states that "[t]he administrative head of another office said that he asked 25 professional staff to help clean the office before he left." The GAO told us that this former employee is referring to a specific office within the Office of Management and Budget ("OMB"). No one alleged that this particular office – or any office in OMB – was left dirty. Therefore this comment is irrelevant, and we believe the GAO misleads the reader by including it in its report since the GAO does explain that the comment does not rebut or relate to any observation of a current staff member. The GAO has again failed to include the facts needed for the reader to have a complete and accurate understanding of the matters reported.

Now on pp. 71-72.

103. **PAGES 72-73.** The GAO writes:

> In a letter sent to us in January 2002, the former director of the Office of Management and Administration and the former senior advisor for presidential transition said that, for months before the transition, they had been assured that additional cleaning crews would be detailed to the White House complex to assist GSA cleaning crews during the final week of the administration. However, the former officials said that they did not observe any cleaning crews during the evening of January 19 or the morning of January 20.

- Again, we believe that if the GAO is going to include this criticism of the cleaning staff, it must also provide the reader with an estimate – based on the GAO's review of the GSA's work and payroll records (records that the GAO already has) – of the number of cleaning staff and contractors who worked that weekend and the numbers of hours worked. Otherwise, the reader has no means of evaluating the comment – either its credibility or its relevance.

Now on p. 72.

104. **PAGE 73.** The GAO reports that "[t]he office manager for the office where an EOP employee told us that it appeared that a pencil sharpener was thrown against the wall and that pencil shavings were on the floor said the sharpener in that office did not work and may have been placed on the floor with other items to be removed."

- The employee told the GAO that *two* pencil sharpeners were found broken and on the floor along with shavings. In addition, with respect to one of the two sharpeners, there was a distinct mark where the pencil sharpener struck the wall. The comment of the former office manager thus does not rebut the employee's observations.

Now on p. 73.

105. **PAGE 75.** The GAO writes:

> Six EOP staff reported observing writing on the wall of a stall in a men's restroom that was derogatory to President Bush. In addition, two EOP staff and one GSA employee said that they observed messages written on

an office wall. Two of those three employees said that the writing was on a writing board that could be erased. Two other White House employees said that they saw pen and pencil marks on walls, but no written words.

A few comments:

- The graffiti in the men's restroom was vulgar, in addition to being derogatory to the President. It said, "What W did to democracy, you are about to do in here." It was an act that was plainly intentional and, given its content, the GAO could reasonably conclude that it was written shortly before the transition.

- The writing on the wall in the Scheduling Office, while not profane in nature, said something like "Republicans, don't get comfortable, we'll be back," thus again indicating that it was written shortly before the transition and by a member of the outgoing staff. One of the three observers who saw the room shortly after noon on January 20, told the GAO that he was certain that the writing was directly on the wall.

- The GAO's final sentence – that "[t]wo other White House employees said that they saw pen and pencil marks on walls, but no written words" – does not, in our view, adequately describe what the GAO was told. These were not observations of a stray pen mark, as the sentence suggests. Rather, one White House employee said that *an entire wall* in one office was covered in lines that appeared at a distance to be cracks. That observation was confirmed by an OA employee, who said that she too had heard that someone had etched a wall like marble. A second White House employee said that a wall in or near Room 158 was covered in pencil and pen marks, which she described as "slasher marks" and "beyond normal" wear and tear.

Now on p. 74.

106. **PAGES 75-76.** We believe that the GAO has downplayed the number of the signs, the number of locations where they were observed, and their content.

While in some cases such signs are easily removed and, in a few cases, were probably meant as a joke, we believe the GAO should describe the signs more fully and with greater detail for at least three reasons. *First*, the number, tone, and location of the signs may indicate the mindset of certain former staff members in offices where other damage was found. *Second*, these details allow the reader to compare the 2001 transition and prior transitions. Notably, the GAO has included considerable detail about the number and content of signs found by former members of the Clinton Administration during the 1993 transition. Yet the same level of detail is lacking when the GAO discusses the 2001 transition. *Third*, and similarly, if the report is going to include a former staff member's comment that the signs were "harmless" (Report at 76) or not "obscene" (Report at 75), we believe that the GAO should provide the signs' contents, or how the observer described the signs (*e.g.* "vulgar"), so that the reader can decide whether the characterizations are accurate.

We also believe that stickers that were permanently affixed to government property (copiers and cabinets) are not the same as prank signs or messages that were simply taped on a wall or placed in copy machines and printers. Yet the GAO treats these things as equivalent.

The tables below detail the number, location, and content of some of the signs that were observed:

SIGNS AFFIXED TO FURNITURE AND OTHER GOVERNMENT PROPERTY	
Location	**Observation**[21]
191	Sticker affixed to filing cabinet that reads "jail to the thief"; shown to GAO
197	Key broken off in file cabinet with Gore bumper sticker with the words "Bush Sucks" stuck to the inside of the cabinet (observed by two persons)
West Wing – outside COS and VP offices	Gore bumper sticker stuck to the bottom of paper tray in the copier

SIGNS AND MESSAGES (not including signs affixed to property)	
Location	**Observation**[22]
West Wing – Vice President's Office	"Vulgar words" on white board**
West Wing	Sign comparing President Bush to a chimpanzee found "in a number of printers"; "laced" throughout the reams of paper ***
West Wing – Vice President's Reception Area	Three copies of the same sign taped to wall (observed by two persons)**, ****
	15-20 copies of the same sign laced throughout ream of paper in fax machine and copier (observed by two persons)
West Wing – First Floor	Same sign shuffled throughout the paper tray in copy machine outside the Chief of Staff's office
West Wing	20-30 copies of same sign interspersed throughout ream of paper in printer in office that is adjacent to the Oval Office
East Wing	8" x 10" color piece of paper that said "see you in four, Al Gore" in drawer of the copy machine
EEOB – room not identified	Same President Bush/chimpanzee sign found in a printer**

[21] The comments in this table were, collectively, reported by 4 separate individuals. Unless otherwise indicated, each line reports an observation by one person.
[22] The comments in this table were, collectively, reported by 28 separate individuals. Unless otherwise indicated, each line reports an observation by one person.

EEOB – basement	In location where people "dumped" supplies, a sign read "Gifts for the New President" (Head Telephone Operator*****)
EEOB – 87	Sign taped to a desk of a mock MasterCard ad that includes a picture of President Bush and reads, "NEW BONG: $50, COCAINE HABIT: $300, FINDING OUT THAT THE GOOD-OLD-BOY NETWORK CAN STILL RIG AN ELECTION IN THE DEEP SOUTH: PRICELESS. For the rest of us there's honesty." The GAO was provided with a copy of this sign.
EEOB – 100-104	T-shirt with tongue sticking out draped over chair **
EEOB – 128	Sign that read "just laugh" taped to the wall
	Signs
EEOB – 160-164	"Inappropriate" message in printer or fax tray
	"Quite a few signs"
EEOB – 160	Picture of former First Lady taped to cabinet
EEOB – 162	Photo in safe that had the word "chad" spelled out in paper punch holes (observed by two persons)
EEOB – 177-189	Signs
	Notes in the desk drawers
EEOB – 192	Sign addressed to and disparaging of "Bush staffer" on wall
	Sign of a mock *Time* magazine cover that read "WE'RE ******" on wall (observed by five persons)
EEOB – 197B	Desk drawer had 2 Gore/Leiberman stickers displayed inside
EEOB – 2d floor	Picture of Bush with something drawn on it on the 2d floor*
EEOB – 3d floor library	Sign reading "VP's cardiac unit" (observed by two persons) °,°°
EEOB – 4th floor	Pictures of President Clinton and notes about President Bush "were everywhere"+
EEOB	Signs inserted into office nameplates, including signs outside of the former First Lady's Office (Room 100-104), the OMB, and the Office of Faith-Based and Community Initiatives (observed by four persons) °°, °°°, ++)

*GSA employee, worked in the White House complex during Clinton Administration
**OA employee, worked in the White House complex during Clinton Administration
*** OA employee, worked in the White House complex during Clinton Administration
**** OA employee, worked in the White House complex during Clinton Administration
***** OA employee, worked in the White House complex during Clinton Administration
° OA employee, worked in the White House complex during Clinton Administration
°°OA employee, worked in the White House complex during Clinton Administration
°°° OA employee, worked in the White House complex during Clinton Administration
+GSA employee, worked in the White House complex during Clinton Administration
++ GSA employee, worked in the White House complex during Clinton Administration

Obscenity deleted by GAO.

Now on p. 75.

107. **PAGE 77.** It is not accurate, in our view, for the GAO to say that the statement that trucks were needed to recover new and usable supplies "generally was not corroborated." OA's Associate Director for the General Services Division told the GAO that, because the excess supplies had been "dumped" in the basement hall and were piling up down there – leaving "much of it unusable" – he instructed his staff to take the supplies to the

off-site warehouse where the staff could re-sort the supplies and salvage what was still reusable. As the GAO itself reports, eight truckloads were needed to recover these new and usable supplies from the basement. Had these trucks not been dispatched, all of the supplies (instead of just of portion) would have been rendered unusable. Thus the statement in the June 2001 list was "corroborated."

Now on p. 76.

108. **PAGE 78.** Two employees (not one) told the GAO that they had found classified materials left unsecured in multiple locations. An employee with more than 30 years of service in the White House complex told the GAO that he found classified materials in an unlocked safe during the night of January 19, when he toured the offices. In addition, a GSA employee said she found "classified information" in "quite a few rooms." It is understandable if the Director of Records Management did not find these documents himself, since he toured offices looking for documents for less than two-and-one-half hours before his attention was diverted to the West Wing at approximately 2:30 a.m. on January 20.

Also, as the GAO notes, a White House employee reported that he found a selection of sensitive documents, including some pardon-related materials and some fundraising materials, in the Counsel's Office in the EEOB. It is not surprising that the Director of Records Management did not find these documents since the occupants of the Counsel's Office did not depart their offices until long after he stopped checking rooms in the EEOB at approximately 2:30 a.m.

Now on p. 77.

109. **PAGE 80.** Appendix II addresses the condition of the White House complex during previous presidential transitions and compares that to the 2001 transition, where the GAO states that an "EOP employee showed us writing inside a desk that was dated January 1993." The writing in the desk is neither profane nor disparaging of the incoming President or his administration. It reads: "Take care of this place. We will be back in four (4) years! (1/93)."

Now on pp. 77-78.

110. **PAGE 81.** The GAO has included only some of the statements made by current staff members about past transitions. The GAO, for instance, fails to mention that several employees, including longtime staff members, said that the 2001 transition was "worse" (and not only with respect to the amount of trash) than what they had seen during past transitions. Omitted statements include the following:

- After an individual employed at the White House since 1973 described problems found with the phones, the GAO asked, "Is this sort of thing unusual?" This employee responded yes, "this was unusual"; "every administration has pranks," but this was "worse."
- When the GAO asked the same individual whether it looked like the prior occupants had "purposely trashed the place," he replied that it was "not sloppiness, it looked like one big party" had been there and that he "never remembers seeing anything like this before."

- The same employee told the GAO explicitly that the offices "shined" during the Reagan Administration and that, when President George H.W. Bush left office, "[he] never encountered any problems with telephones"; perhaps "unplugging of phones, but that was it."

- An individual who observed the transitions from Nixon to Ford, Ford to Carter, Reagan to Bush, Bush to Clinton, and Clinton to Bush, said that he had "never seen anything like it" and had "never seen this building [the EEOB] in such bad condition."

- Another individual, an OA employee for roughly 17 years, said that the trash was worse this time than in prior transitions; in addition, he told the GAO that the condition in which the building was left "was a bit juvenile" and suggested the prior occupants were "not cognizant of responsibilities of people coming behind [them]."

- A GSA manager told the GAO that there were "far more" personal belongings left behind during the 2001 transition than during the 1989 transition.

- In addition to telling the GAO that the offices were "dirtier than past transitions," an OA employee with more than 30 years of service said that the amount of trash "was beyond the norm."

- A Bush Administration official, who was in charge of the transition out of government in 1992, told the GAO that he personally took a tour of four floors of the OEOB and West Wing on January 20, 1993, and he saw "nothing comparable" to what he saw during this transition. He twice told the GAO that the damage during this transition was "more than [he]'d seen in other transitions."

- An OA employee who has worked in the complex for 23 years and observed seeing problems during the 2001 transition, told the GAO that she "didn't notice anything at all" during Bush-to-Clinton transition; nor did she recall anything when the Carter Administration left office.

111. **PAGE 82.** The GAO continues:

Now on p. 78.

> The OA associate director for facilities management said that every transition had had a problem with missing historic doorknobs. Similarly, the director of GSA's White House service center said that doorknobs are favorite souvenirs of departing staff. The telephone service director said that telephone cords were unplugged and office signs were missing in previous transitions and that unplugging telephones is a "standard prank."

- The GAO fails to mention that the GSA director has observed only two transitions – the 2001 transition and the 1989 transition. He said that he had only *heard* that

doorknobs went missing during the 1989 transition; he did not observe anything himself.

- The Director of White House Telephone Services did not say that office signs were missing *in previous transitions*. He recalled that occurring in one prior transition. He recalled that, when the Carter Administration left office, "door signs were missing and cords unplugged."

Now on p. 78.

112. **PAGE 82.** The GAO states that "[t]he director of GSA's White House service center during the 2001 transition said that the condition of the office space during the 2001 transition was the same as what he observed during the 1989 transition." But the GSA employee observed little in the way of pranks, damage, or vandalism during the 2001 transition; saying that he "saw much the same thing" during the 1989 transition means that he claims not to have observed much in either transition.

Now on pp. 78-79.

113. **PAGE 82.** The GAO's reference to what the GSA Acting Administrator said in his March 2, 2001, letter may be misleading to the reader. The GSA's letter references only "the condition of the *real property*" – and not the telephones, the computers, the furniture, the office signs, etc., which were the focus of the damage, vandalism, and pranks that occurred during the 2001 transition.

Now on p. 79.

114. **PAGE 83.** The GAO reports that "[s]even former employees . . . said that computers were not operational or were missing hard drives at the beginning of the Clinton administration. Two of those employees said it took 1 to 2 weeks for the computers to work." The GAO was told that computers were not working and hard drives were missing because the prior Bush Administration was required to remove the hard drives in connection with a case captioned *Armstrong v. Bush.* The GAO obliquely refers to the case in footnote 64, but a reader will not understand the relevance without further explanation.

Now on p. 79.

115. **PAGE 83.** The GAO reports that "[t]wo former employees said that telephones were piled on the floors or were disconnected. (One of those former employees said she was told that staff would receive new telephones.)" An employee with over 30 years of service told the GAO that, when the Clinton Administration came into office, he was instructed to "get[] rid of [the] Republican phone system." This would explain why the former employees found phones disconnected and were "told that staff would receive new telephones."

Now on p. 79.

116. **PAGE 83.** We again note the GAO's willingness to include a characterization by a former staff member who says that damage "appeared to have been . . . intentional[]," but the GAO omitted from its report similar statements made by members of the current staff. For example,

- The White House telephone services coordinator told the GAO that the missing phone labels "must have been intentional."

- An employee who has worked at the White House since 1998 told the GAO that the rooms he observed were "deliberately made to look like someone was communicating a message."
- A former White House manager told the GAO that some of conditions he saw looked "intentional."
- An individual who has observed five prior transitions said the offices looked like a "[l]arge number of people . . . deliberately trashed the place."
- A current employee told the GAO that the desk drawers were clearly damaged intentionally and not just wear and tear.
- An employee who worked at the White House from 1999-2001 told the GAO that "it was intentional, not accidental" with respect to the damage he observed in dozens of rooms.
- A Bush Administration official who has participated in a prior transition told the GAO that the conditions he observed were "more than wear and tear."
- A current employee said that the broken key in the file cabinet looked "deliberate" to him.
- An OA employee responsible for facilities management said that some of the damage was the result of "intentional trashing."
- An employee with over 30 years of service in the White House said it looked like the prior occupants had "purposely trashed the place."

Now on pp. 79-80.

117. **PAGE 84.** The GAO writes:

> One former employee who started working at the White House in January 1993 and left in January 2001 said that the officers were messier in January 1993 compared with January 2001. Another former employee said that on January 20, 1993, his office contained leftover food and that the walls needed repainting. A third former employee said the offices were still not cleaned by the afternoon of January 21, 1993. Another former employee said that there were 'dusty and dirty' typewriters on desks.
>
> Three former staff said they saw a total of at least six Bush bumper stickers in different offices, on cubicle walls, in a desk, on a telephone. One former employee said she saw one to two photocopies of political cartoons left in a copy machine, a bottle of aspirin with a prank note inside a desk, a large banner on the balcony of the EEOB, and a tarp for a tent left behind.

- Again, we note that the same level of detail – for precisely the same sort of allegations – is lacking when GAO describes observations made during the 2001 transition. By not including this information for the 2001 transition, the GAO has failed, in our view, to include all information needed to satisfy the audit objective to compare the 2001 transition with past transitions. *See* Government Auditing Standard 7.50 and 7.51 ("The report should be complete. . . . Being complete requires that the report contain all information to satisfy the audit objectives, promote an adequate and correct understanding of the matters reported, and meet the report content requirements. It also means including appropriate background information.").

Now on p. 80.

118. **PAGES 84-85.** The GAO was able to find only one news report that mentions the condition of the White House complex during previous transitions. The GAO claims that "the *Washingtonian* magazine indicated that incoming Reagan administration staff had some complaints about the condition of the EEOB that were similar to observations made by EOP staff in 2001." The Reagan administration staff complaints were, according to the article, finding memoranda taped to the walls; lampshades torn by paperclips hung on them to hold messages; a refrigerator with thick mold; and a large coffee stain on a sofa outside the vice president's office. These allegations are hardly "similar," as the GAO maintains, to what was found in 2001 transition. By analogizing the circumstances, the GAO trivializes what was observed in 2001.

Part III: Comments on Recommendations

Now on pp. 81-82.

119. **PAGES 86-87.** Although Appendix III is entitled "Steps to Help Prevent Damage to Government Property during Future Presidential Transitions," the draft report does not actually contain any "steps" or recommendations in this section. It simply discusses the check-out process used during the Clinton Administration and the procedures followed on Capitol Hill when offices are vacated.

120. The GAO fails to include anywhere in its report two of the factors that OA officials, who have been through many transitions, identified as contributing to the problems found in the January 2001 transition.

First, an employee who has worked at the White House for over 30 years told the GAO that he felt "hampered" in doing his job because he was "not allowed to have any contact with the incoming Administration." He indicated that, in the past, he was allowed to confer with incoming staff regarding their telephone needs and expectations; but this was not permitted during the 2001 transition. Likewise, an employee who has observed five prior transitions told the GAO that this transition was unusual because, for other transitions, there was a transition team from the new Administration on-site in the complex. This time, the person said, the incoming administration did not get access to the space until three days before the Inauguration and did not get "legacy books" – books that explain how things work within the complex and within particular offices – until after the Inauguration.

Second, a number of longtime employees told the GAO that problems could have been averted or remedied sooner if members of the Clinton Administration had vacated their offices earlier. By way of example, one OA manager recalled seeing a woman simply watching television in her office; precisely at noon, she turned her TV off and left. Documents that we provided the GAO show that 325 passes of White House Office employees were terminated on January 19 and January 20, 2001.

We believe that the points made by these employees are valid ones, and deserve to be addressed in the GAO report.

GAO's Response to the White House Comments

GAO's response to the White House's specific comments follow. We have grouped the comments in the categories listed below.

Underreporting of Observations

The White House said that we had underreported the number of observations in various categories, including the signs and messages, computer keyboards, missing items, furniture, offices with trash, telephones, writing on walls, and classified documents.

Signs and Messages

In comment 8, the White House said it believed that we had substantially underreported the number of signs and messages observed in the letter portion of the report. However, as indicated in the results section, the letter portion of the report only contains observations made in specific locations, and additional observations that staff identified by floor or building, but not by room or office, are provided in appendix I. Moreover, we reported some observations of signs and messages differently from the White House. For example, we reported observations of writing in desks in the section regarding furniture-related problems. In addition, we reported two observations that the White House included in the category of signs and messages (observations of paper hole punches arranged on a floor to spell a word and a T-shirt draped over a chair with a picture of a tongue sticking out) in a different category relating to observations of trash and personal items left behind. We also added to our count two Gore stickers that staff told us were found in a file cabinet, which we had not included in our draft report.

The White House also said in comments 9 and 106 that we should have reported the specific content of all of the signs and messages. We addressed these comments in the White House's general comments about the amount of detail provided.

In comment 23, the White House said that writing was found on the walls of four rooms, rather than two rooms, as the report indicated. The statement concerning writing on the walls in the letter portion of our report summarized additional details provided in appendix I. Further, by "writing," the report referred to observations of actual words written on walls. As explained in appendix I, other staff observed pen and pencil marks on the walls of two other rooms, but no words. For the purposes of clarification, we revised the statement to indicate that staff observed writing "(words)" on the walls of two offices.

The White House said in comments 68 and 87 that we failed to include the statement of an EOP employee who told us about statements made by a repairman, who while fixing a broken copy machine, said that he found a pornographic or inappropriate message when he pulled out the copier's paper drawer. We did not include the repairman's statement because we did not include information people relayed to us from third parties, which is generally not regarded as competent evidence.

Keyboards

The White House disagreed with the range of keyboards that were observed with missing or damaged "W" keys in comments 10 and 51. We previously explained how we calculated the range of observations in response to the White House's general comment regarding the number of observations reported.

In comment 54, the White House also said that we did not report that the Office of Administration (OA) associate director for information systems and technology saw some glued-down space bars. Although we modified our report, we note that this official first told us that the problem was inoperable space bars and subsequently said it was glued down space bars.

In comment 55, the White House said that we underreported the number of "W" keys taped or glued to walls; that we failed to mention that other staff reported that they found "W" keys sitting next to keyboards and computers; and that an additional employee saw piles of keyboards or computers or a computer monitor overturned that we did not report. Our range of "W" keys taped or glued to walls differed from what the White House had indicated in its comments. Further, the White House counted a least two keys when people said they saw "some" keys taped or glued to walls, but did not specify a number. However, we did not estimate numbers in those cases and disclosed that in the report. We did not report the observations of "W" keys sitting next to keyboards or on computers because we believed that reporting the number of keys glued or taped to walls provided sufficient detail to support the observation of keyboards with missing or damaged keys. We revised the report to indicate that five, rather than four, employees observed piles of keyboards or computers or a computer monitor overturned.

In comment 56, the White House said that we did not consider the statement of the OA branch chief for program management and strategic planning in the information systems and technology division. The White House pointed out that, on one of the branch chief's last deliveries of

broken items to the temporary workroom, someone had told her that the count of damaged keyboards was up to 150. We did consider her statement. Our report contained a statement attributed to the branch chief that 150 keyboards had to be replaced.

The White House also said that, by contrast, we provided more details regarding the observations made by the OA associate director for information systems and technology, but had omitted the fact that this official said that she was not focused on the keyboards during the transition, but that she personally saw only about 10 keyboards with missing "W" keys, a concentration of keyboards with missing "W" keys in certain offices, and some keyboards with glued-down space bars, and that she was very upset at the condition in which some of the keyboards were left. In addition, the White House said that during our second interview with the OA associate director for information systems and technology, we had asked this official to estimate the number of keyboards with missing "W" keys without reminding her that we had asked her the same question during our first interview with her.

To address the White House's comments, we added to the report statements contained in our interview record with the OA associate director for information systems and technology indicating that she said that she was not focused on the keyboards during the transition, but that she saw about 10 keyboards with missing "W" keys, some with glued-down space bars, and a lot of keyboards that were "filthy." We also added, on the basis of our interview record, that she believed that more of the keyboards with problems were found in the offices of the first lady and vice president than in other offices. However, contrary to the White House's assertion, our record regarding the follow-up interview with this official indicated that we did remind her about her earlier statement about the number of keyboards with missing "W" keys when we asked her that question again. As indicated in the report, we asked to conduct a follow-up interview with this official after obtaining an estimate from the branch chief for program management and strategic planning in the information and technology section that about 150 keyboards had to be replaced because of missing or damaged "W" keys.

Also in comment 56, the White House said that we did not report what the OA associate director for information systems and technology said the contract employee who packed the keyboards told her regarding the number of damaged keyboards. However, we did not include observations people relayed to us from third parties. Further, the contract employee's

statements that she provided to us during an interview were provided in the report. The White House also noted that we did not meet with the branch chief, but interviewed her by telephone; we made the appropriate change. Finally, the White House said that we had misquoted the OA associate director for information systems and technology when we indicated that she said that of the 100 keyboards that had to be replaced, about one-third to one-half would have been replaced anyway because of their age. The White House said that this official told us that one-third to one-half of the keyboards would have been replaced if they had not been changed out in 4 to 8 years. Although our interview records indicated that this official said that one-third to one-half of the keyboards would have been replaced anyway, they did not indicate that she also said "if they had not been changed out in 4 to 8 years" as the White House indicated, so we did not change the report.

In comment 57, the White House said that, regarding the 12 boxes of computer equipment that were discarded, we should have explained that the contract employee personally packed some of the boxes; and that for those, she filled the boxes with keyboards and then used excessed speakers, cords, and soundcards to fill in gaps and ensure that the keyboards would not shift in the box. We did not believe these details to be relevant.

Missing Items

The White House said in comments 19 and 44 that 11 to 13 doorknobs were observed missing, compared to the 10 to 11 contained in the report. Our total differed from the White House's because (1) the White House counted 0 to 2 missing doorknobs in its range when an Executive Office of the President (EOP) employee said a doorknob was missing in the Eisenhower Executive Office Building (EEOB) but did not specify any location (room, office, or floor); however, we did not include it to prevent possible double counting of missing doorknobs where specific locations were identified; and (2) the White House counted two missing doorknobs when an EOP employee said that a doorknob was missing on a certain floor of the EEOB, but did not identify the room. However, because we did not know whether a doorknob was missing on both sides of the door in that case, we used a range of one to two. (Although this employee did not specify the room or office where the doorknob was observed missing, we counted this because it was on a floor of the EEOB where no other doorknobs were observed missing.)

In comment 41, the White House noted that four of the six EOP staff who told us that they observed a total of 5 to 11 missing office signs were OA employees and worked in the White House complex during the Clinton administration, and that the fifth employee who worked for the White House Office also served during the Clinton administration. We did not believe these details were needed and did not revise the report in response to this comment because we generally did not differentiate among staff who had worked in the White House complex before or after January 20, 2001, in reporting the observations. Also in comment 41, the White House said that one of the employees told us that a former Clinton administration employee told her that he also observed two missing brackets on the morning of January 20. However, we did not report this statement because we did not include observations people relayed to us from a third party. Nonetheless, we also interviewed that former Clinton administration employee, who said that he noticed that some office name signs were missing, but could not recall how many. He also said that he did not see any metal frames for the signs that were missing.

In comment 22, the White House asked that we quote from a facility request form that asked GSA to "put doorknob on" an interoffice door. In addition, in comment 45, the White House said that we should state that the recollection of a General Services Administration (GSA) planner/estimator regarding this repair is inconsistent with the request form and the recollections of at least three current staff members. The statement contained in the letter portion of the report summarized information provided in more detail in appendix I, where the facility request form was quoted directly. However, we revised the statement contained in the letter portion of the report to quote from the form. Regarding the White House's request that we state that a GSA employee's recollection is inconsistent with the facility request form and the recollections of at least three current staff members, the report indicated an EOP employee told us that he had observed two pairs of missing doorknobs in this office. Because no other EOP staff told us that they observed missing doorknobs in this office, including the employee who prepared the request, (who did not request to be interviewed by us) we did not include the statements contained in the White House's comments. Further, in the White House's table of missing doorknobs provided in comment 19, the White House only provided the account of one person who observed missing doorknobs in that office.

The White House also said in comments 22 and 45 that, if we include a statement by a GSA planner/estimator that he received no written facility requests made to GSA for replacing office signs, medallions, or doorknobs

during the transition, we should cite facility requests to "put…on" a doorknob and for "replacement of frames & medallions," dated February 7 and April 19, 2001. The February 7 request was contained in the report. In response to the White House's comments 22, 43, and 45, we added the April 19 request, even though it was prepared 3 months after the transition. The White House also said we should report statements made by two OA officials and a White House Office employee about missing building fixtures. However, we did not believe these additional comments were essential, and one of the statements was information that was relayed to us from a third party, so we did not include them.

The White House also said in comments 20 and 46 that the report should have included an additional television remote control that was observed missing. Our interview notes indicated that one employee initially told us that five or six remotes were missing in a certain office, but later in the interview said that five were missing, which we had used in our draft report in reporting the total number of remote controls observed missing by all EOP staff. However, in response to the White House's comments, we changed the number that she observed to five or six.

The White House also said in comment 46 that we should note that one of the observers had worked in that office during the Clinton administration, which we added because we believed it could be relevant to the observation. However, we did not discuss the two observations of missing television remotes separately, as the White House suggested, because we did not believe the additional detail would add any essential information.

Furniture

The White House said in comments 14 and 59 that we underreported the number of reports of damaged furniture and the number of observers. We did not underreport this information. Our lists of furniture-related problems that were observed were substantially the same as the list that the White House provided in its comments. However, we broke out observations of furniture-related problems into various subcategories, such as broken furniture, furniture with damaged locks, chairs with torn fabric, and desks with burns and scratches.

In comments 16 and 66, the White House said that the report failed to include a January 29, 2001, facility request form that documented a request to obtain a key to a file cabinet that was locked in an office where an EOP employee said he had observed damaged furniture. The report had cited a January 25, 2001, facility request made by the same employee to gain

access to a locked file cabinet in the same room that was cited in the January 29 request. However, in response to the White House's request, we added the January 29 request to the report, even though it did not indicate any additional problems were reported.

The White House said in comments 17 and 62 that we underreported the number of pieces of furniture that were observed overturned. We compared our interview records to the information provided by the White House and found that our records of the interviews differed from the White House's account of the interviews in some cases. In one case, when we interviewed an official, he mentioned various pieces of furniture that he had observed overturned, but when he provided a tour of that office to show what he had seen, he did not mention all of the pieces of furniture. We added three additional pieces of furniture to reflect the statement he made during the interview. However, we did not add, as the White House did, observations of furniture in locations that staff could not recall because they could have duplicated ones reported observed in specific locations.

In comment 64, the White House disputed a GSA official's statement that furniture could be overturned for a variety of reasons, such as to reach electrical or computer connections. We obtained this comment directly from GSA on April 30, 2002, and GSA did not raise any objection to it in its comments on our draft report. It is important to note, however, that this statement was a generic possible explanation that did not relate to a specific observation.

The White House said in comments 18 and 65 that our description of observations of a sticky substance that was found on desks was inaccurate and incomplete, and it also provided further details. We believe that the report generally provided a sufficient level of detail regarding these observations. However, to address the White House's comments, we added more information about these observations in appendix I.

In comment 29, the White House disagreed that the observations of damaged furniture differed from the June 2001 list in terms of total numbers and extent of damage. In our discussion of furniture-related observations in the letter portion of the report, we summarized the extent of damage that staff said they observed regarding broken furniture and stated that no information was provided that identified which offices some of the broken furniture came from or exactly when the damage occurred. Further, no one reported actually observing furniture being intentionally

damaged, and no definitive evidence was provided regarding whether the damage was intentional. Consequently, we were unable to conclude whether the furniture in six offices was intentionally damaged severely enough to require complete refurbishment or destruction, as indicated in the June 2001 list.

In comment 61, the White House said that we mistakenly reported that five staff said they observed writing inside drawers of five desks and that we were shown writing in four of those five desks. Instead, the White House said, five staff observed writing in or on six desks, that not all of the writing was inside drawers, and that we observed writing in five of the six desks. However, the White House included a sticker on a desk that we had counted in another category of observations (signs and written messages). The report indicated that we had observed that sticker.

Finally, the White House said in comment 72 that we were wrong in saying that, during the first of two interviews we held with an EOP employee, she said that her observations, which included desks with burn marks and scratches, pertained to a particular office, rather than a suite of offices. The White House also pointed out that we were taken into the two offices that she was referring to. However, our record of this interview indicated that her observations pertained to a particular office and that she repeatedly referred to the previous occupant of that specific office. Further, when we toured the office suite in question, she did not stop to discuss furniture in an adjacent reception area as well. In any event, we reported that in a follow-up interview with this employee, she said that her observations pertained to two rooms in an office suite.

Offices with Trash

In comment 4, the White House said that the statement "[m]ultiple people said that …they observed (1) many offices that were messy, disheveled, or contained excessive trash or personal items" was an understatement and provided other observations that were made in the office space, such as "W" keys glued to the walls and overturned furniture. This statement was a part of a summary paragraph of certain observations regarding trash and personal items that were left behind; other types of observations that the White House mentioned are contained elsewhere in the report.

In comment 12, the White House said that the report's description of the seven photographs that were taken of offices in the EEOB on January 21, 2001, was incomplete. The description of the photographs provided in the

letter portion of the report summarized a more detailed description of the photographs that is provided in appendix I.

In comments 13 and 92, the White House said that our list of facility request forms in appendix II that document the condition of the offices was incomplete. It cited two facility request forms dated January 30 and others dated January 25, February 17, and February 21. One of the January 30 request forms was already cited in the report, and we added the other one. We also added the January 25 request form to the report, which requested cleaning services in the same room as the February 17 request and was in the report. We did not include the February 21 facility request form because it was unclear whether the request for carpet cleaning necessarily corroborated reports of pencil shavings, paper, and files on the floor, which were made during the first days of the administration. The request was made a month after the observations were made and we did not know whether cleaning was needed as a result of the observations that were made during the first days of the administration or some other reason.

In comment 13, the White House said that, in describing one of the January 30 facility request forms, our description of the condition of the office where work was requested was incomplete. The White House noted that staff also told us about significant damage to furniture in that office suite, including a desk drawer with its drawer fronts removed, chairs without legs, and a chair with its entire back broken off. However, we did not mention those additional observations with respect to the facility request form because the form did not corroborate them. With respect to furniture, the January 30 request form that the White House cited in comment 13 only requested furniture cleaning. The additional observations that the White House referred to actually pertain to a different office for which another January 30 facility request was made. However, that January 30 request form also did not corroborate observations of broken furniture. With respect to furniture, that form only indicated that furniture cleaning was requested.

In comment 90, with regard to the section heading "trash," the White House said that we apparently equated a statement in the June 2001 list that offices were left in a state of general trashing, which is not the same as saying that they had trash in them. The White House said that we should revise our "trash" section heading to "trashing of offices." Although some portion of the observations reported in this section could have been "trashing," i.e., vandalism, many of them were only observations of trash and personal items left behind. Further, although the White House

included in the June 2001 list "glass top smashed and on the floor" under the category of "offices were left in a state of general trashing," we reported observations of broken glass desk tops in the section of appendix I regarding furniture. Therefore, we did not change the section heading to "Trashing of Offices," but to "Trash and Related Observations."

In comment 91, the White House said that we had made a gross understatement by indicating staff had observed offices that were messy, dirty, and disheveled. The White House asked that we accurately report what we were told, rather than recharacterize it, and provided a table providing statements that staff had made regarding "trashed" offices. We believe that we already reported a sufficient amount of information about these types of observations. First, we reported the total number of people who observed offices that were messy, disheveled, dirty, or containing trash or personal items left behind (a broader category that the White House indicated in its comments) in specific rooms or offices, on certain floors, or in locations they could not recall. Second, we provided several examples of how offices were described. Third, we reported related observations in several related categories, such as food left in refrigerators; furniture, carpet, or drapes that were dirty; contents of desk drawers or filing cabinets dumped on floors; pencil sharpener shavings and paper hole punches on the floor, as well as several singular observations. Fourth, we reported detailed observations about trash made by the OA associate director for facilities management and a White House management office employee. Fifth, we described photographs of messy offices that the White House provided. As in several other comments, the counsel to the president asked that we expand our reporting of certain problems by providing selected additional details. However, our goal was to be objective and not only provide additional details that supported a single perspective.

In comment 97, the White House said that we improperly redefined the observations to simply a discussion of excessive trash, when the observations were not limited to such. The White House cited a statement contained in the report made by a White House management office employee who told us what he observed was probably a combination of some trash having been dumped intentionally and an accumulation built up over the years. However, the White House said that this employee's statement was far more direct and covered more than just trash. According to the White House, when we asked this employee whether the condition of the offices, which included, among other things, filth and trash, was intentional or a result of neglect, he responded that it was a combination.

Our interview record indicated that this employee said that he saw trash everywhere, but did not know whether the amount of trash left was intentional or was due to a lack of maintenance. He said the "filth" that he found was probably an accumulation from over the years and that some looked like it had been dumped intentionally. He also mentioned that he had found trash in desks and food left behind. We believe that these observations were sufficiently reported and that no additional information needed to be added.

In comment 100, the White House said that we failed to report a statement made by an employee who also served during the Clinton administration who told us that what she observed was way beyond what you would expect to see in a large move, that she was surprised and embarrassed by the condition of the offices during the inaugural weekend, and that she knew that the same offices were in pretty good shape during the weeks and month before the transition. We did not add the statement that the White House suggested because the report already included in appendix II the views of several staff who said that more cleaning was required during the 2001 transition than during previous ones.

Telephones

The White House said in comments 24, 75, and 79 that we underreported the number of telephones observed with missing labels and the number of observers. The report contained a different number of missing telephone labels observed than the White House indicated for several reasons. First, our records of observations differed from the table that the White House provided in its comments in some cases. For example, the White House included the observations of 3 to 5 missing labels by two employees that we did not have in our interview records. One of those two employees did not request to be interviewed by us, and we have no record of obtaining comments from that individual. Our record of interview with the other employee (the telephone service director) did not indicate that he observed any labels missing from that room. The interview record also indicated that he said the telephones with missing labels that he observed were all on the first floor of the EEOB; however, the room that the White House cited was on another floor. Because we were informed that this individual had retired from the EOP since we interviewed him, we were not in a position to resolve this. Second, the White House double counted the number of telephones with missing labels in a certain office, which increased the high end of its total range of missing labels, which we did not do.

Third, when we interviewed the telephone service director, he provided some different information during his interview than he did during a tour he provided to show us where he observed telephones with missing labels. We used the information that he provided during the tour when he provided more specific numbers and locations than he had during the interview. By contrast, the White House appeared to have counted the information that he provided both during the interview and the tour.

Fourth, in its tally, the White House counted at least two missing labels when an individual did not provide a specific number, but said "labels" or "some" were missing, which we did not do in our final count. The total number of missing telephone labels contained in our draft report had included our assignment of one missing label to reflect an instance where the specific number observed was not provided. However, for consistency in reporting all observations when people did not cite the specific number of incidents, we did not estimate the number of telephones with missing labels in this instance and revised our total count by reducing it by one. We also added a footnote explaining that the total range of missing telephone labels does not reflect a number that the telephone service director said he observed in a room, but did not specify how many.

In comment 25, the White House said we did not report how many telephones were unplugged or piled up or how many offices were affected. According to the White House, telephones were piled up or unplugged in 25 or more offices in the EEOB. We do not know how the White House determined this number. According to our records, many of the observations were not precise regarding the locations. In appendix I, we reported that staff observed telephones unplugged or piled up on two floors of the EEOB and in four specific rooms on those floors, but that was the extent to which we could quantify the number of locations. Further, our records indicated that although one official said that he observed seven or eight telephones piled outside an office, the other six employees who said they observed telephones that were unplugged or piled up did not indicate how many they saw.

The White House said in comment 26 that the report failed to mention the telephones that were forwarded and reforwarded throughout the complex during the transition. The White House said that, according to its records, roughly 100 telephones were forwarded to ring at other numbers. These observations were not reported in the letter portion of the report, but they are discussed in appendix I. As indicated in the results section, the observations contained in the letter portion of the report were those made

in specific locations in the main categories, and the employee who said that about 100 telephones had been forwarded to ring at different numbers, with one exception, did not cite the specific locations of those telephones.

The White House said in comments 27 and 74 that the report did not adequately and correctly disclose information about telephone lines that were observed ripped from walls. In comment 27, the White House said that, if we had reported that the people who made the observations did so early in the morning on January 20, the comments made by a former Clinton administration employee who said the cords were probably torn by moving staff would be less credible because the moving staff did not begin work until later in the day. In response to the White House's comments, we added additional information to appendix I about when EOP staff observed cords pulled out of walls. We also revised a statement made by a former Clinton administration employee who said that (1) the cords were probably pulled from walls by moving staff to clarify that the cords she had seen pulled out of walls were not observed around the time of the transition, and (2) she intended to provide a possible explanation on the basis of a previous observation. In comment 74, the White House said that our data on the number of cut and pulled cords is not accurate. Our total number of observations and observers in this category were substantially the same, but reported differently. We reported observations separately of telephone lines ripped or pulled from walls; other types of cords pulled from walls; damaged plugs; and a telephone cord that appeared to have been cut with scissors. In addition, it appeared that the White House counted an observation of a ripped cord that was not made in a specific location, which we did not count.

In comment 75, the White House questioned why a footnote contained in the draft report reported a range of telephones in a certain office. We could not determine the exact number of telephones in that office from the documentation that the White House provided. Accordingly, we changed the number to reflect an estimate provided by the White House. The White House also said that a total of five, not four, staff observed missing labels, which we revised in the report. Also in comment 75, the White House said that our report did not include an observation that telephone labels in one room were replaced "before noon" on January 20 and were missing again later that day. We added that to the report.

The White House also said in comment 75 that, in addition to the number of missing labels that were reported in specific rooms and offices, we should have reported the observations of missing labels by the telephone service

director, who said that he personally saw more than 20 telephones with missing labels; the OA associate director for facilities management, who said that there were many instances of missing labels on telephones; and another employee who said she was the "middleman" between EOP staff and contractors regarding the telephones during the first month of the administration and said that the majority of telephones in the EEOB and the White House (roughly 85 percent) had removed labels or contained incorrect numbers. The telephone service director's recollections regarding the number of telephones he observed with missing labels in specific rooms or offices were included in the total number observed by all staff, and we did not believe it was necessary to break out the number he personally observed missing. Although the OA associate director for facilities management did not indicate how many telephones he observed with missing labels, his observations were made in two offices where others observed specific numbers of missing labels, and the other people's observations are reported in the total. Finally, the observation of the employee who was the "middleman" between EOP staff and contractors regarding the telephones during the first month of the administration was already contained in the report. According to the White House, this employee said that a majority of labels on telephones, or about 85 percent, had been removed "or contained incorrect numbers." Our record of this interview indicated that she said that about 85 percent of the telephones were missing labels "or did not ring at the correct number," so we did not revise the report.

In comment 76, the White House said that we underreported the number of telephones that were forwarded and reforwarded to ring at different numbers throughout and between the EEOB and the West Wing, and indicated that seven White House staff reported that roughly 100 telephones were forwarded to ring at other numbers. Further, the White House said that it did not know why we treated the observations of the employee who coordinated telephones during the first month of the administration differently from the other observers. The White House also questioned why we did not report that this employee told us that the chief of staff's telephone was forwarded to a closet.

We did not underreport the number of reports of telephones that were forwarded and reforwarded. Our count of the number of forwarded telephones was substantially the same as what the White House indicated in its comments. However, we reported the observations made in specific locations separate from the observation made by the employee who coordinated telephones during the first month of the administration. As

explained in our response to comment 26, that employee said that about 100 telephones had been forwarded to ring at different numbers, and with one exception, she did not cite the specific locations of those telephones. Further, according to its comments, the White House counted the observation of an employee who said that the telephone number did not ring if the number on the telephone was dialed. Our record of interview with that employee was different and indicated that his telephone had a number for an extension that was different from his actual telephone number. We did not count that statement as an instance of a forwarded telephone. In addition, as indicated in the report, we had included the observation made by the employee who coordinated telephones during the first month of the administration of a forwarded telephone in a specific location among the 100 telephones that she said were forwarded to other numbers. With respect to the one specific telephone that she cited, our interview records indicated that she told us that the chief of staff's telephone had been forwarded, but did not indicate that it was forwarded to a closet.

The White House said in comment 78 that we had dramatically understated the number of telephones that were not working by failing to report that one EOP employee said that no telephones were working on the south side of the EEOB. Our record of the interview indicated that she told us that, because many telephones were not working in a section of a floor of the EEOB, the switchboard forwarded calls from that area to other offices where telephones were working, and that she walked from office to office delivering telephone messages; we added that to the report to address the White House's comment. However, we did not estimate the number of telephones that were not working in that part of the building and did not know whether they were not working because of an intentional, malicious act.

In comment 80, the White House said that we failed to provide important information regarding the extent of the problem with voice mail messages and the consequences of this problem—that no one had voice mail service for the first days and weeks of the administration. The White House said those facts concerned the reports of obscene voice mail messages that were heard by the telephone service director and the OA associate director for facility management. The White House also said that we should have reported that when these two officials began touring offices and checking telephones in the EEOB at approximately 1:00 a.m. on January 20, the telephone service director listened to about 30 greetings, approximately 10 of which were inappropriate. Further, of those 10 inappropriate messages,

the telephone service director said 5 or 6 were vulgar. In addition, the White House noted that the telephone service director said that White House telephone operators notified him that there were obscene messages on some of the voice mail greetings. The White House said that after encountering the high ratio of inappropriate and vulgar messages, and because of these messages, a decision was made around 1:00 a.m. to take the entire system down. Further, the White House said that the telephone service director explained that he erased some messages around 1:00 a.m. on January 20, and they were rerecorded later that day.

Our interview records indicated the OA associate director for facilities management heard an inappropriate voice mail message, but he did not tell us about hearing obscene voice mail messages. The report had indicated that two EOP employees who helped establish telephone service for new staff, including the telephone service director, said they heard a total of six to seven obscene voice mail messages that were left on telephones in vacated offices. In addition, we had reported that the telephone service director said that inappropriate and vulgar voice mail messages were initially erased on an individual basis, but it was eventually decided to erase all of them. Further, we reported that the OA associate director for facilities management said that so many complaints were received about voice mail that voice mail service was discontinued for a while to clear out the system, and that no one had access to voice mail for at least 5 days and possibly up to 2 weeks. To provide additional detail about when the inappropriate and vulgar voice mail messages were heard, in response to the White House's comments, we added that the telephone service director said that he heard inappropriate and vulgar voice mail messages during the early morning hours of January 20.

We did not report what the telephone service director said he was told by telephone operators about hearing obscene voice mail messages because it was information that was relayed to us from a third party. Further, according to our record of interview with the chief telephone operator, she told us that operators received some calls from staff complaining about not getting their voice mail and that their telephones were not working correctly, but she did not mention complaints about obscene voice mail messages. Finally, regarding the messages that the telephone service director said he erased during the early morning hours of January 20 and were rerecorded later that day, he said that those messages were not inappropriate in nature. Because they were not inappropriate in nature and could have been left for business reasons, we did not believe that this additional information needed to be reported.

Writing on Walls

In comment 105, the White House said that the report's description of two observations of pen and pencil marks on walls, but no words, did not adequately describe what we were told. The White House noted that these were not observations of a stray pen mark, as it said the report suggested. Rather, the White House said, one observation was that an entire wall in an office was covered in lines that at a distance appeared to be cracks. Further, the White House said this observation was confirmed by an OA employee who said that she too had heard that someone had etched a wall like marble. However, the report already indicated, regarding the observation, that the employee who observed it said that there were cracks in the paint, but because the marks washed off, he thought it looked like someone had used a pencil on a wall. Further, because it was information relayed to us from a third party, we did not report what someone had told the OA employee about a wall etched like marble. Regarding the other observation, the White House noted that an employee said that a wall was covered in pen and pencil marks, which she described as slasher marks and beyond normal wear and tear. According to our interview record, this employee said she requested that the walls be repainted in one room because there were pen and pencil marks on them, but no words were written. We did not believe that these additional details were essential and needed to be added to the report.

Classified and Sensitive Documents

The White House said in comment 108 that we failed to include the telephone service director's statement that he found classified documents in a safe during the night of January 19. We added that observation. The White House also noted that it was not surprising that the director of records management did not find sensitive documents in the counsel's office because the occupants of those offices did not depart their offices until after he had checked for documents there. However, his statement related to classified, and not sensitive, documents.

Underreporting of Costs

The White House said that we had underreported or failed to report the costs of various items, including those associated with cleaning, telephones, missing items, keyboards, furniture, and other costs.

Cleaning

In comments 30 and 99, the White House said the report omitted the costs associated with a January 30, 2001, facility request form asking for cleaning

services. GSA provided two copies of this form, both with the same document number. On one copy, cleaning services were requested. No costs were provided on that copy of the form, which indicated that the services were completed on January 31, 2001. The second copy said "making new drapes," and that the work was completed on March 2, 2001, at a cost of $2,906. We attributed the $2,906 cost to the making of new drapes and not cleaning. During our interviews with staff working in this office, no one mentioned observing problems with the drapes in this office.

Also in comment 99, the White House said that we could have, but did not, determine how much time and money was spent paying the cleaning staff and how much should have reasonably been spent on the basis of the amounts spent during past transitions or estimates provided by administrative staff. Further, the White House said that we already knew that the costs exceeded what was expected because the OA associate director for facilities management told us there was "lots of money that was spent that shouldn't have to be spent." Our record of the interview with the OA associate director for facilities management did not indicate that he told us this. He did say that during the last couple of years, Clinton administration staff kept some rooms in a "much less desirable fashion," and the space did not look much different during the transition. He also said more people were working the EEOB during the Clinton administration than during previous administrations. The director of GSA's White House service center similarly said that he did not see any difference in the condition of the rooms during the transition than when he saw them 2 to 3 years before. He said that he did not think the departing Clinton administration staff were being intentionally messy on January 20 and that they had been like that all of the time. He also said that he observed more personal belongings left behind during the 2001 transition than during the 1989 transition, but that the condition of the offices during the 2001 transition was the same as that during the 1989 transition. Accordingly, we did not estimate or include incremental cleaning costs, as the White House suggested.

Telephones

In comments 30 and 81, the White House said that our report was inaccurate and incomplete with regard to the cost of replacing removed labels and rerouting forwarded telephones. It is unclear why the White House said that our report was inaccurate regarding these costs. We did not report any aggregate costs for replacing labels or rerouting forwarded telephones, but cited hourly rates for telephone service work that are the same as those contained in the White House's comments. We also cited the

cost of removing a telephone from an office, which the White House did not dispute.

With respect to the completeness of cost data, we did not report a total cost figure for replacing missing labels or correcting forwarded telephones because we did not believe the documentation provided by the White House was clear and descriptive enough for us to do so. For correcting forwarded telephones, the White House provided one telephone service request that said a telephone line did not ring on a particular set. However, it did not state the cause of the problem, so we did not know whether the cause was forwarding or something else.

Most of the White House's points in comments 30, 79, and 81 addressed the costs associated with replacing missing labels. It said that (1) we should estimate how much it would cost to replace the number of missing labels reported to us as missing, (2) our statement that orders included other services is incorrect and that placing button labels on telephones means replacing missing labels beyond a doubt, (3) we never discussed the closed orders log with OA's telephone services coordinator, and (4) the closed orders log does more than mention labels.

The White House estimated that $6,020 was incurred to replace missing labels and correct forwarded telephones, and said that we had ignored the information it had provided on this issue. As its basis for the $6,020 estimate, the White House cited two blanket work orders and related bills for work that included relabeling telephones on January 20 and 21, 2001. The costs attributed by the White House to replacing labels and correcting forwarded telephones for both of these orders was $2,490. The White House arrived at its $2,490 estimate for relabeling telephones and correcting forwarded numbers, which it considered conservative given the number of missing labels and forwarded telephones, by assuming that technicians spent 10 percent of their time on these two days fixing these two problems. While we do not question that labels were missing or that telephones were forwarded and that the government incurred costs for replacing missing labels or correcting forwarded telephone calls, we have no information on the extent to which technicians spent their time fixing these problems on January 20 or 21, 2001, nor any basis to develop an estimate for this. Furthermore, if technicians replaced the labels reported missing under the blanket work orders as the White House suggests, then it is unclear why there would also be individual work orders to replace those same missing labels.

The White House's support for the remaining $3,530 (of the $6,020 estimate) consisted of items shown on the closed orders log for the period January 20, 2001, through February 20, 2001; individual service requests provided that cite placing labels on telephones; and AT&T invoices. We reviewed this information. In fact, we reviewed it carefully, and our record of interview indicated that we did discuss the closed orders log with the OA telephone services coordinator. We did not believe the closed orders log, the individual service requests, or invoices that the White House provided had enough information for us to definitively conclude that the costs shown were solely for replacing missing labels or provided a sufficient basis to compute an estimate of those costs.

With one exception, neither the closed orders log nor the individual service requests the White House provided specifically cited replacing missing labels that had been removed, and in every case for which we have a telephone repair document, another service was cited along with placing labels on telephones, including the service requests for the one exception referred to above. For example:

- For one service request cited in the White House's comment letter as needing a label placed on a telephone by a technician, the actual service request said: "need line 65240 to ring on my phone 66522. On 66522 add 65240 on button 7 and 8. Need label placed on set by a technician." According to the White House, the charge for this service was $75.92.

- Another service request the White House included in its $6,020 estimate was for, it says, placing labels on sets. The White House said the estimated cost of this work order was $151.84 based on being billed for 2 hours of work. The corresponding entry for this service request on the closed orders log says, "INSTALL (2) 8520 SETS IN RM-200, NEED LABELS PLACED ON SETS." The White House did not provide the individual service order for this repair.

The one service request cited above as an exception, which was dated January 29, 2001, read: "Replace labels on all phones that [sic] removed" along with other services in a room for which the White House said the bill was $75.92. The corresponding entry in the closed orders log for this order was "INSTL NEW# 62926, 65961 / REPLACE LABEL." We do not have any additional information to explain the difference between the individual service request and the log.

A number of service requests that involved placement of labels also involved programming or reprogramming of telephones. For example, the White House cited a work order indicating that labels were needed, among other things, in several rooms at a cost of $341.64, which read: "Disconnect 6-9008 in Room 271 OEOB. Reprogram sets in Rooms 263, 265, 266, 267, 268, 269 and 271. Need labels placed on each set." The requirements portion of the work order indicated "change" and "disconnect." Thus, it is unclear from the information provided, whether labels were needed because (1) they were missing, (2) there was a change in telephone service or functions as a result of the reprogramming that could have affected the labels, or (3) both conditions existed. It is also unclear to us from the information provided by the White House why telephones had to be programmed or reprogrammed if the only problem was a missing label and why 4 hours of work were required solely to place labels on telephones for each of four service requests. In cases where labels were missing, it appears that a new label could have been needed in some cases due to changes in telephone service or functions desired by new occupants, such as adding a new number to a telephone.

Regarding the White House's statement that placing button labels on a set means replacing missing labels, in addition to the above examples, we note our discussion with the OA telephone services coordinator during which she said that service orders mentioning labels listed on the closed orders log do not necessarily mean that telephones were missing labels. We did not discuss each entry with her on the closed orders log that cited labels because it did not appear necessary at the time of our interviews with her, and it was clear that we were discussing the closed orders log. An associate counsel to the president attended our meetings and raised no objection or concern about this issue at the time of the meetings.

Further, although the OA telephone services coordinator told us that she had records from which she could estimate the total number of telephones with missing labels and the associated costs to replace them, we did not receive this information. While there could have been a misunderstanding between us and the telephone services coordinator on the meaning of the terms on the closed orders log, we believe she clearly understood that we were seeking information about the number of missing labels and the associated costs, and because she said she would provide this information to us, we saw no need to request additional documentation on this issue at that time.

As a related issue, the White House said in comment 81 that it explained to us that there is no separate charge when a system analyst performs work, such as reprogramming a telephone, that does not require a technician to be dispatched to an office. According to the White House, if a technician must go to the office to replace a label, there is a minimum charge for each hour or portion of an hour even if it is only a few minutes to perform the work. The White House did not document this until after we had sent our draft report. While we do not question that situations may have existed in which the only service provided for which a cost was incurred was to replace a missing label, we cannot determine to our satisfaction the extent to which these situations occurred from the documentation provided to us. Given the examples we cited above in which other services besides placing labels on telephones were provided, the extent to which costs were incurred just for replacing missing labels is unclear. The extent to which new labels would have been needed anyway due to changes desired by new office occupants is also unclear.

Further, given the OA telephone services coordinator's statement about the little time needed to replace telephone labels, it is unclear why technicians would have spent 4 hours just placing labels on telephones in some cases where the service order shows the only other service besides placing labels on sets as programming telephones. It is also unclear why a generic or blanket service request to replace missing labels was not prepared if this was the only service needed. It would appear that such an order would have been less costly to the government than preparing individual service orders for individual telephones or offices given that it only takes a short time to place a label on a telephone.

Given all of the questions we have related to the information the White House provided on costs associated with replacing labels, we are not making any estimates of such costs. To do so would require additional details on the work that was done in response to requests for telephone service involving placing labels on telephones. Obtaining this information could have required discussions with the technicians who performed the work, which could have involved additional costs to the government. Given this and the time and effort that would be required by us and White House staff, we did not believe further exploration by us of the costs involved with replacing labels would have been cost beneficial to the taxpayers.

Finally, we modified our report to reflect the White House's comments 79 and 81 that the closed orders log does more than mention labels, as well as

to address comment 30 regarding replacing labels, as we deemed appropriate.

Missing Items

In comment 31, the White House objected to our deducting the value of one doorknob to reflect the statement of a GSA employee who said that a facility request form regarding work in an office where two pairs of doorknobs were observed missing was not done to replace a missing doorknob, but to perform maintenance on a worn-out part. The White House pointed out that the GSA employee's statement is inconsistent with the facility request form and the recollections of at least three current staff members. We discussed the observations regarding these doorknobs in our response to comment 22. Regarding the related cost issue, we recognized the GSA employee's statement in this case because he said that he was responsible for repairing and replacing building fixtures in the EEOB, including doorknobs. The report still included the cost of replacing three of the four doorknobs that were observed missing in this office, totaling $700. The difference in deducting the cost of one doorknob in this case was $100.

In comment 47, the White House said it was untrue when we reported that we did not obtain any information about the possible historic value of the seal that was stolen. The White House pointed out that we were told in writing that the $350 purchase price would not purchase an exact replica of the brass seal that was stolen; that the seal was purchased in the mid-1970s, and is no longer available; and that the $350 would purchase a plastic-type casting. The statement that was included in the report about this historic value was intended to convey that we did not obtain a dollar value associated with the historic value of the seal; we clarified that statement accordingly. In addition, to address the White House's comment, we added the additional details provided.

Keyboards

In comment 58, the White House disagreed with our reporting of costs associated with replacing damaged keyboards for three reasons. First, it said that our estimate of 30 to 64 keyboards that were observed missing was incorrect and should be 58 to 70, using a different counting methodology. It also said that the numbers only represented observations made in specific rooms or offices and do not account for the observations of other EOP staff who told us about additional damaged keyboards, such as the branch chief for program management and strategic planning in the information systems and technology division, who said that 150 keyboards

had to be replaced. We addressed this point in our response to the White House's general comment about the number of observations reported and in our response to comments 10 and 51. We also revised the table in the report to clarify that the range of keyboards pertained to observations made in specific rooms or offices. The statement by the branch chief for program management and strategic planning in the information systems and technology division, who said that 150 keyboards had to be replaced, was already included in the table and apparently overlooked by the White House.

Second, the White House noted that we included an estimate that the OA associate director for information systems and technology provided in February 2002, even though she said that her memory regarding that matter was not as good as when we interviewed her in June 2001. However, this official's statement in June 2001 that 64 damaged keyboards had to be replaced was also included in the table. Because we did not know which figure was correct, we included both statements made during the two interviews.

Third, the White House said that it was not accurate to represent that the OA associate director for information systems and technology said that one-third to one-half of the keyboards may have been replaced every 3 or 4 years because of their age. We addressed this point in comment 56.

Furniture

In comment 69, the White House said that we failed to mention costs attributable to damaged furniture and did not attempt to estimate the costs of replacing furniture that was discarded because it was beyond repair. However, as indicated in the letter portion of the report and appendix I, the OA director told us that no record existed indicating that furniture was deliberately damaged and that no inventory of furniture of the EEOB exists. Further, although in April 2002, an associate counsel to the president provided us with photographs of four pieces of furniture that she indicated were moved to an EOP remote storage facility, no information was provided regarding from which offices these pieces had been taken or when or how the damage occurred.

In comment 69, the White House also said that we had failed to quantify very real costs incurred, such as in having movers remove damaged furniture and return with replacement furniture, having movers make overturned furniture upright, and removing the glue-like substance from desks. We did not believe it would have been cost-effective for us to

attempt to estimate these costs, and our report clearly indicated that we did not attempt to obtain cost information related to all observations reported to us.

Other Costs

In comment 32, the White House said that we failed to quantify certain additional costs that were incurred as a result of damage, such as the time expended by computer staff and contractors to replace damaged keyboards; the time spent on removing "W" keys and prank signs affixed to the walls; and the time spent to clean up trash and dirt that exceeded reasonable amounts or amounts seen in prior transitions. The White House said that it would have been possible for us to have generated a range of estimates, but that we chose not to, resulting in a substantial underreporting of the very real costs associated with the damage, vandalism, and pranks that occurred during the transition.

Although it is possible that we could have estimated some additional costs potentially attributable to intentional acts, we did not believe it would have been cost-effective for us to have done so. For example, we did not believe that our time and resources should have been expended on estimating any possible incremental costs to remove "W" keys and prank signs that were placed on walls, or that any such estimates would likely have been material. Further, we did not have a sufficient basis to conclude that all of the damage that the White House cited, such as broken furniture and copy machines, was caused by intentional acts. Accordingly, we did not provide such costs in our report.

Additional Details and Intentional Acts

The White House said additional details should have been reported about certain observations, such as those relating to telephones, furniture, keyboards, a missing office sign, a copy machine, and writing on walls that would have allowed readers to determine whether incidents were done intentionally and, in some cases, that they were likely done by former Clinton administration staff.

In comment 28, the White House said that, in many cases, the undisputed facts indicated when incidents occurred and who the likely perpetrators were and cited several examples. In particular, the White House took issue with a statement in the report that we were generally unable to determine who was responsible for the incidents that were observed, and said we simply failed to determine who was responsible. For example, the White

House said we did not try to contact the former occupants of offices where messages other than those of "goodwill" were left. Examples that the White House cited regarding telephone labels and furniture are discussed in comments 6 and 15 below. The White House also cited examples regarding the placing of glue on desks; the leaving of prank, inappropriate, and obscene voice mail messages; and the removal of keys from keyboards, which are discussed below.

We agree that the likely perpetrators could be identified from the observations and available information with regard to a few of the observations that were made. For example, because the telephone service director said that a passcode was needed to record voice mail greetings, it was fair to conclude that the previous occupants left the voice mail greetings that were heard. Moreover, we had concluded in the report that the leaving of certain voice mail messages, the placing glue on desks, and the removal of keys from keyboards were done intentionally. However, the White House is incorrect in asserting that we did not try to contact the former occupants of offices where messages other than those of goodwill were left. As explained in our scope and methodology section, we contacted 72 former Clinton administration staff, most of whom had worked in offices where observations were made, including numerous staff who worked in offices where signs and messages were observed and heard, and not only those that were of goodwill. When we contacted them, we described or showed lists of the observations that were made in their former offices and asked for any comments or explanations. However, former Clinton administration staff we contacted did not provide explanations regarding every observation, and we did not contact all former Clinton administration staff because we did not know where they were and because of the level of resources that would have been required. In addition, regarding the reports of obscene or vulgar voice mail messages that were left, specific information was not provided about which telephones those messages were left on, so we could not ask any particular former staff about them. Moreover, it is speculative to suggest that, had we contacted additional former Clinton administration staff, we would have obtained undisputed facts regarding when the incidents occurred and the likely perpetrators.

The White House also said in comment 28 that our report suggested that contract movers and cleaners were responsible for vandalism, damage, and pranks, which it believed to be an insult to the contract personnel. Our report did not state that these contract personnel intentionally caused any damage. However, they were among other individuals in the complex

during the transition besides former Clinton administration staff, which made it more difficult to narrow down people who were possibly responsible, either intentionally or unintentionally, for the problems reported observed. We made a written request to the White House for a list of the number of visitors cleared into the EEOB during the weekend of January 20 and 21, 2001, and their respective organizational affiliations. However, the White House declined to provide that information, indicating that it was available from the individuals responsible for hiring and supervising contractors who may have already provided us with estimates regarding the number of contractors. We were provided with information regarding a certain number of GSA contractors who were in the complex that weekend, but not about other contractor staff, such as those working with computers, or any other visitors to the complex.

In comment 28, the White House cited observations made in the vice president's West Wing office, including an oily glue-like substance smeared on desks; prank signs that were on walls and interspersed in reams of paper in printer trays and copy machines, and vulgar words that were on a white board that were all discovered between midnight on January 19 and noon on January 20. The White House said that it could be reasonably concluded from these observations that the damage occurred shortly before the inauguration and that former Clinton administration staff were the likely perpetrators because it can be presumed that the former office staff did not work under those conditions. However, in certain respects, our interview records differed from what the White House indicated in its comments regarding these observations. Although all three staff told us they observed the glue-like substance and prank signs, none of them said they saw vulgar words written on a white board. One of the employees said that her staff told her that they had seen vulgar words written on a white board there, but we did not interview anyone who personally saw that, and we did not include information people relayed to us from third parties. We would agree that, on the basis of the timing of these observations, they were likely carried out shortly before the inauguration, but in the absence of witnesses or other evidence we are not in a position to conclude who was responsible.

In comment 35, the White House said that our list of incidents that were done intentionally was incomplete and provided several additional cases that it said appeared to have been done deliberately by former Clinton administration staff. Our conclusion that the leaving of signs and written messages was intentional was meant to encompass certain observations that the White House cited in comment 38, including a Gore bumper sticker

stuck to the inside of a copy machine, writing on and in desks, and a sticker in a filing cabinet. Further, our conclusions were not meant to be comprehensive in the same level of detail that the White House indicated, but did include damage to "W" keys, in addition to "W" keys removed from keyboards; "W" keys glued to walls and placed in drawers; the removal of an office sign that was witnessed by an EOP employee; and desk drawers turned over. Finally, we could not conclude, as the White House did, that certain incidents, such as a lamp placed on a chair and pictures and other objects placed in front of doors, were done deliberately by former Clinton administration staff. It seemed equally as likely that they could have been done as part of the moving out process. Further, the White House's statement that most, if not all, printers and fax machines were emptied of paper in vacated offices was not contained in our interview records, and it was not clear whether that would have been done intentionally. Other incidents that the White House listed relating to telephone and furniture are discussed below.

In comments 38 and 68, the White House said that we should report the views of many staff who said that, on the basis of their first-hand observations, damage appeared to have been done intentionally. In our report, we included examples of statements made by some individuals who told us they believed the incidents they observed were done intentionally and some individuals who told us they did not believe what they observed was done intentionally. However, we did not include all statements made by all individuals about views on whether incidents were done intentionally. In any event, without having observed the incidents being carried out, people's views on whether incidents were intentional were speculative in many cases.

Telephones

In comment 6, the White House said that it did not understand why the report indicated that the documentation provided indicated that much telephone service work was done during the transition, but did not directly corroborate allegations of vandalism and pranks regarding the telephones when several staff members reported observing telephones with missing labels.

However, the documentation provided did not show what caused the needed work or that the labels were intentionally removed from offices as acts of vandalism. Further, our conclusion is consistent with the OA director's April 18, 2001, statement that "…repair records do not contain information that would allow someone to determine the cause of damage

that is being repaired." As noted in the report, some former Clinton administration staff said that telephones were missing labels during the Clinton administration, primarily because those telephones were only used for outgoing calls. Although the OA telephone services coordinator said she believed that telephone labels were removed intentionally, she said the documentation regarding telephone service requests that mentioned labels did not necessarily mean that the telephones had been missing labels and that new labels might have been needed for variety of reasons. In comment 28 and 36, the White House noted that, according to the telephone service director, some of the missing telephone labels that were replaced before noon on January 20 were found missing again later that day, which indicated that the removal of at least some of the labels was an intentional act, occurred before January 20, and that outgoing staff were almost certainly responsible. We would agree that, on the basis of the telephone service director's observation on January 20, some telephone labels were intentionally removed. Although these circumstances may suggest that some telephone labels were removed by departing Clinton administration staff, in the absence of any witnesses we were not in a position to conclude who was responsible. No documentation was provided relating specifically to these observations.

The White House also said in comment 6 that staff noted that telephones were left on the floor and that the documentation showed a request for a technician to retrieve a telephone found on the floor of an office. Although this telephone service request corroborated a request to retrieve a telephone in an office where an EOP official observed telephones piled on a floor, we did not conclude that this corroborated an act of vandalism because the request did not indicate why the telephone was left on the floor.

In comment 36, the White House said that we should report the views of many staff who said that, on the basis of their first-hand observations, damage appeared to have been done intentionally, including the OA telephone services coordinator, who said that missing telephone labels must have been intentional. The OA telephone service coordinator's comment was included in the report.

In comment 82, the White House objected to a statement attributed to the director of GSA's White House service center, who said that there were any number of reasons why problems could have been observed with telephone and computer wires besides people having cut them deliberately because, for example, the cleaning staff could have hit the wires with the vacuum

cleaners or computer staff could have been working with the wires. According to the White House, this statement would be relevant only if the cut and pulled wires were observed after the cleaning and computer staff had entered the offices. The White House noted that the two employees who reported the cords pulled from the walls observed the damage in the early morning hours of January 20 before any cleaning staff had entered the rooms and before the computer staff entered the rooms to archive computer data. However, although the cleaning crew for the transition began on January 20 and the archiving of data from computers was taking place in the morning of January 20, other cleaning and computer work undoubtedly was done in offices at some point before January 20. Further, even though the staff made these observations on January 20, we did not know when and how the wires became separated from the walls. In addition, the employee who observed at least 25 cords pulled out of walls, who the White House did not mention in this comment, said that she made her observation on January 22. In addition, the January 24, 2001, GSA facility request that this employee requested did not state that cords were separated from the walls; the request was to "organize all loose wires and make them not so visible."

Furniture

In comments 15 and 36, the White House objected to a statement attributed to former Clinton administration staff who said that some furniture was broken before the transition and could have been the result of wear and tear, and little money was spent on repairs and upkeep during the administration. According to the White House, the statement could not be squared with the circumstances surrounding the reported damage. It also noted in comment 36 that it would be odd behavior for office occupants to have broken chairs through normal wear and tear and leave them unrepaired for some time. Further, the White House provided examples of additional details regarding observations made by EOP staff regarding furniture problems, which it said suggested that the damage was intentionally done by former Clinton administration staff or was done shortly before the inauguration.

As previously explained, we did not obtain comments from former Clinton administration regarding every observation, including all furniture-related problems. Therefore, we agree that the above statement made by former Clinton administration staff does not necessarily apply to all observations of furniture-related problems. With respect to the White House's assertion that it is difficult to believe that office occupants would not remove certain broken furniture, as indicated in the report, the former director of one

office where EOP staff told us they observed pieces of broken furniture said that the office furniture had been in poor shape for some time, but the staff tolerated it. The former director added that they did not want to send the furniture away to be repaired because it was uncertain how long it would take or whether the furniture would be returned. We also note that, in August 2001, we observed a desk in the EEOB with detached drawer fronts that had not been repaired, and the staff in that office said the desk had been in that condition since they arrived in January 2001. Further, although the White House said in comment 15 that the details regarding certain observations suggested that furniture was intentionally damaged by former Clinton administration staff or occurred shortly before the inauguration, we could not make any definitive conclusions about how the damage occurred and who may have been responsible for it on the basis of those details or the statements of some EOP staff who said that it appeared that certain damage had been caused intentionally.

In comments 28 and 36, the White House cited several cases in which it said the undisputed facts indicated when furniture was damaged and the likely perpetrators. Also, in comment 67, the White House said that the overwhelming circumstantial evidence indicates when the damage occurred, whether it was intentional, and who the likely perpetrators were. In comments 15, 28, 36, 60, and 67, the White House described a case involving a key that was observed broken off in a file cabinet, still hanging in the lock by a metal thread, and when the locksmith opened it, a Gore bumper sticker with an anti-Bush statement was prominently displayed inside. According to the White House, the circumstances in this case suggested that the damage occurred not long before the inauguration, was intentional, and was done by a former Clinton administration employee.

Our interview records regarding this incident differed in certain respects from what the White House indicated in its comments. Although the staff said they saw a broken key in the cabinet and one employee said that he found two Gore stickers inside, none of them said they observed an anti-Bush statement prominently displayed inside. One of the employees said that another person told him he saw a Gore sticker with a message that was derogatory about the president written on it. We did not report what the other person had told him because it was information relayed to us from a third party. Further, when we interviewed the person who reportedly observed the anti-Bush statement written on a sticker, he told us about seeing two Gore-Lieberman stickers inside the cabinet, but he did not mention any writing on them. Although we believe that it is likely that political stickers were left in a cabinet around the time of the election, it is

speculative to conclude that the individual who left the sticker inside the cabinet was the same person who broke the key off in the lock, and that the key was intentionally broken off in the lock. Also in comments 28, 36, 60, and 67, the White House cited a similar case about locked desk drawers that, when pried open, contained two pieces of paper with anti-Bush statements. We had already concluded in the report that these written messages were done intentionally.

The White House also cited cases in comments 28 and 67 that it said suggested the damage occurred shortly before the inauguration. In one case, the White House cited the statement of an employee who said that she saw damaged furniture in offices where things looked pretty good weeks or months earlier, which the White House said suggested that damage was done shortly before the inauguration weekend. According to our interview record with this individual, the only observations that she made regarding furniture were of doors on a wall cabinet hanging on only one hinge and upholstered furniture that was filthy, which she attributed to dirt that had built up over time. Although the cabinet doors could have been damaged around the time of the transition, the upholstered furniture probably did not become dirty then. In the other case, the White House said the nature of damage suggests that it occurred shortly before the inauguration because the offices' prior occupants and cleaning staff would not have let the damage remain in the office for long. For example, the White House said that it would be hard to believe that occupants would not fix or remove a bookcase with shards of broken glass inside. While we would agree that we would not expect shards of glass inside a bookcase to remain for long, we did not have any information indicating when the damage occurred, or whether it was done accidentally or intentionally.

In comment 36, the White House said that, with respect to our statement that we did not know whether furniture was broken intentionally, and when and how it occurred, it was not plausible to think the cleaning staff completely broke off the backs and legs of multiple chairs within the same office and then left that furniture in the offices for the new occupants. We did not suggest that the cleaning staff broke furniture. However, we note, as discussed above, that some former Clinton administration staff said that certain pieces of furniture were already broken prior to the inauguration and had not been repaired.

The White House also said in comments 38 and 67 that the nature of some of the damage and the surrounding conditions suggested that it was done intentionally and/or was done shortly before the transition weekend. For

example, the White House cited the observation of an EOP employee who said that her desk drawers clearly had been kicked in and this damage was not just wear and tear. Our interview record with this individual indicated that she observed a desk where the locks on a drawer had been damaged and the drawers could not be opened, but did not indicate that she said the drawers had been kicked in.

In another case cited in comments 36 and 67, the White House cited an observation of two seat cushions slit in an identical manner on apparently new upholstery, indicating that this was not done accidentally. Although it is possible that this observation was of vandalism, it was unknown when and how it occurred and who may have been responsible. No information was available about from which offices these chairs were taken (they were observed in a hallway on January 21), and we did not observe these chairs ourselves to inspect the damage.

Also in comment 36, the White House said that it was not reasonable to conclude that furniture was not overturned unintentionally because most of the witnesses observed overturned furniture before the cleaning staff or new occupants entered the rooms, and it was not plausible to think that cleaning staff would have upended extremely heavy furniture in the manner described. Further, the White House pointed out that two GSA officials said that cleaning staff would not move large pieces of furniture, and none of these things would happen in the normal course of moving out of an office. According to our interview records with these individuals, one GSA official said that while cleaning staff do not normally move furniture to clean offices, furniture could be overturned for a variety of reasons, such as to reach electrical outlets or computer connections. The other GSA official said that he did not see any damage or pranks during the transition and did not mention overturned furniture, according to our interview record. Although we would agree that furniture would be overturned intentionally and that it was unlikely that cleaning staff would have upended extremely heavy furniture in the manner described, some former Clinton administration staff who occupied the former offices where overturned furniture was observed said that it would have been difficult or impossible for them to move certain pieces of furniture. Moreover, the cleaning staff did not enter these offices for the first time on January 20; according to GSA, cleaning is done continuously.

Although we would agree with the White House that it is reasonable to conclude that furniture was overturned intentionally, we do not believe that a sufficient basis existed to conclude, as the White House did in comment

36, that most of the people who observed overturned furniture made their observations before the cleaning staff or new occupants entered the rooms. According to our interview records with the seven staff who observed overturned furniture, none of whom were new occupants of those rooms, two said that they made these observations in the early morning hours of January 20 before the transition cleaning crews arrived; three said that they made those observations during the afternoon of January 20; and the other two did not tell us the time they observed the overturned furniture. Although the descriptions provided by the observers suggested that the offices where overturned furniture was observed had not yet been cleaned, we do not know when particular offices were cleaned on January 20; the time that new occupants entered these offices, or who else may have been in these offices on January 19 and 20. The cleaning crew leader for the EEOB floor where overturned furniture was observed said that the cleaning began at 6:45 a.m. on January 20.

In comment 60, the White House said that it did not recall anyone complaining about missing keys, which would not be considered damage, vandalism, or pranks. Rather, the White House said, the observations pertained to keys that may have been purposefully broken off in the locks or drawers locked intentionally and keys taken or discarded. However, an employee told us that, when he started working in the EEOB on January 20, his desk drawers were locked with no keys available to unlock them and that the movers helped him open the drawers. Other EOP staff told us about broken off or damaged keys in cabinets.

In comment 68, the White House took issue with how we had characterized two employees' statements about whether they believed the damaged furniture they observed was intentionally damaged. In the first instance, the White House said that an employee said that while it was possible that legs on a chair were broken through wear and tear, she thought it was unlikely that a broken chair would be kept in an office in that condition. Our interview record regarding this employee indicated she said that the chair legs could have been broken because of wear and tear and were not necessarily done intentionally in January 2001. In addition, the White House said that we had not included additional statements made by EOP staff who said that the damage, previously discussed in this section, appeared intentional. The White House said an employee told us that her desk drawers were clearly damaged intentionally, and not just by wear and tear, and another employee said that the a broken key in the file cabinet looked deliberate. In the first example, according to our interview record, this employee did not say how the desk drawers were damaged. In the

second example, the employee said the key looked like it had been broken intentionally, but he did not know if it was.

We also note that other people, whom the White House did not cite, said they did not believe that broken furniture was intentionally damaged. For example, the management office director told us that during the first 2 weeks of the Bush administration, she saw a building (the EEOB) filled with furniture that had exceeded its useful life and that a lot of furniture had to be taken out of offices. She said the problems with furniture that she saw, such as broken pieces, were the result of wear and tear and neglect, and not the result of something that she thought was intentional.

Keyboards

In comment 28, the White House said that it is unlikely that Clinton administration staff worked for long without having "W" keys on their keyboards, which suggested that the vandalism occurred shortly before the inauguration. We agree.

Missing Office Sign

In comments 42 and 48, the White House said that we failed to report sufficient detail about an EOP employee who observed a volunteer remove an office sign from a wall in the EEOB. According to the White House, when we reported that an employee said she saw a volunteer remove an office sign outside an office, that the person who removed the sign said that he planned to take a photograph with it, and that the volunteer tried to put the sign back on the wall, it implied that the person intended all along to put the sign back. The White House believes that only when the volunteer was confronted by the EOP employee, did he claim that he planned to take a photograph with it, that he tried to put the sign back, and ultimately did not take it. Further, the White House said that the employee did not believe that the volunteer intended all along to return the sign as our statement suggested.

However, our record of interview did not indicate that this employee told us what she believed the volunteer intended to do with the sign. We also did not know whether this individual planned to take the office sign. We were not provided with the volunteer's name and thus were unable to contact him. Further, we did not speculate, as the White House did, about whether it was only after having been confronted by an employee that he claimed that he wanted to take a photograph with the sign and tried to put it back on the wall.

In comment 48, the White House also said that we failed to mention that an EOP employee said that a former Clinton administration employee told her that he saw that the office sign was missing at some point during the night of January 19. We did not report this statement because it was information relayed to us from a third party. Further, when we interviewed this former Clinton administration employee, he did not say that he observed a sign missing from outside this office.

Copy Machine

In comments 68 and 87, the White House said that we had failed to report a statement made by an employee who said that the repairman who fixed the copy machine found a pornographic or inappropriate message when he pulled out the copier's paper drawer, and that the repairman thought the paper drawers had been intentionally realigned so that the paper supply would jam. We did not include the repairman's statement because it was information relayed to us from a third party.

Writing on Walls

The White House said in comment 105 that graffiti observed in a men's restroom was vulgar, in addition to being derogatory to the president, which was plainly intentional. Given its content, the White House said that we could conclude that it was written shortly before the transition. We agree. Similarly, the White House said that writing observed on an office wall that said something like "Republicans, don't get comfortable, we'll be back," while not profane in nature, also would indicate that it was written shortly before the transition and by a former Clinton administration employee. We agree. As previously mentioned, the report already concluded that written messages were done intentionally.

Statements Made by Former Clinton Administration Staff

In comments 4 and 11, the White House also said that if the report included a statement by former Clinton administration staff that the amount of trash was "what could be expected," it should also include the statements of longtime staff members who said the opposite. This statement was also part of a summary paragraph, and additional comments regarding trash that was observed and comments made by other staff with different views were provided in appendix I.

In comment 5, the White House said that, when we reported that some former Clinton administration staff said that some of the observations were false, it was disappointed that they would make such a reckless statement.

According to the White House, the statement is neither based on nor supported by a single shred of evidence. Further, the White House said that such self-serving accusations like this illustrate why it was important for us to provide the reader with many of the details that we had omitted. For example, the White House said, if the reader is told that a particular observation was made by a staff member who worked in the complex for many years, including the Clinton administration, or that the damage was found in a location where others observed a lot of other damage, then the reader can determine for himself the credibility of the observation.

The statement referenced above was included in part of a summary paragraph, and many additional details regarding the observations are provided throughout the report. Further, we did not make judgments about the credibility of the observations when current and former EOP staff had different explanations and recollections. Regarding the White House's request that we indicate when observations were made by EOP staff who had worked in the White House complex for many years because it would help the reader determine the credibility of the observation, we did not do this because we generally did not have a basis to conclude that EOP staff we interviewed who had worked in the White House complex for many years were more credible than staff who arrived with the Bush administration. On the one hand, one would not necessarily expect Bush administration staff to have positive views of the Clinton administration. On the other hand, EOP staff could have strong views on various administrations. Many of them work at the pleasure of the president, and the associate counsel to the president participated in all of the interviews with EOP staff. We did not speculate about what influence these factors may have had on the people we interviewed. For example, one individual we interviewed who had worked for the EOP under several administrations expressed considerable disagreement during our interview with the Clinton administration's handling of a matter related to his area of responsibility. Although we do not know the extent to which, if any, the individual's views regarding the Clinton administration influenced his conveyance of observations to us, we reported his observations in the same manner as those of incoming Bush administration staff we interviewed.

In comment 49, the White House questioned a comment made by the former director of an office where two pairs of doorknobs were observed missing, that the office had several doors to the hallway that at some time had been made inoperable, and he was not sure whether the interior sides of those doors had doorknobs. According to the White House, even if it were true that the doorknob in the interior side of the door was missing,

that fact would not explain the observation that the door was missing both an interior and exterior doorknob. We only reported what the former director told us and were not suggesting that his comment fully explained the observation.

In comment 70, the White House noted that, regarding the statement by the former manager of an office where at least six pieces of furniture were observed, he provided comments on only two broken chairs (that the arms had become detached a year or two before the transition, that carpenters tried to glue them back, but the glue did not hold). According to the White House, the additional reports of damaged furniture as well as other damage found in the office suite undermine the former manager's innocent explanation for the two chairs. In addition, the White House said that because we were unwilling to specify the locations where damage was found and have not reported more details, readers are unable to assess for themselves the credibility of the former manager's explanation.

The former manager's explanation regarding these two chairs appeared to be plausible because, as we reported, we found two GSA facility requests made by him in 1999 requesting that chairs in that office be repaired. We only reported the comments and explanations that former Clinton administration staff provided on observations made in their respective offices, and did not note, for example, that this former office manager did not comment on the other pieces of broken furniture. Similarly, throughout the report, when we cited an observation made by an EOP employee, we did not point out what that person did not see, even in cases where other people made additional observations in that same location. Further, our record of this interview indicates that the employee who observed the other pieces of broken furniture told us she saw four chairs that had been placed in the hall and that she believed the damage could have occurred due to normal wear and tear and that the chairs were not necessarily broken in January 2001.

In comment 71, the White House questioned the comments of three former staff who had worked in an office where staff told us they found glue or a sticky substance on desks that they were not aware of glue being left on desks. One of those former employees also said that her desk was missing handles when she started working at that desk in 1998, and it was still missing them at them at the end of the administration. The White House said that these statements are inconsistent with the statement of an employee who said that a handle was found inside the desk with more of the oily-glue-like substance on top of it. The White House also said that the

reader is unable to evaluate the credibility of the comments made by the former staff because the report does not say where these desks were located and that various other damage and pranks were found in the same location.

We do not believe the additional details that the White House cited about these observations, which we did not report, would have allowed readers to more fully evaluate the credibility of the statements made by the former Clinton administration staff. For one reason, incidents could have taken place in this location after the former Clinton administration staff we interviewed had left, which they said was between midnight on January 19 and 4:30 a.m. on January 20. Our record of the interview with the employee whom the White House indicated observed a desk handle inside a desk with more of the glue-like substance on top of it did not contain the level of detail that the White House provided in its comments. Our interview record indicated that she observed a desk drawer that had a handle removed and glue that was placed on the bottom of a drawer. Further, as indicated in our discussion regarding comment 28, although all three staff told us they observed the glue-like substance and prank signs in this area, none of them said they saw vulgar words written on a white board. One of the employees said that her staff told her that they had seen vulgar words written on a white board there, but we did not interview anyone who personally saw that, and we did not report information relayed to us from a third party.

In comment 73, the White House said that if we included detailed comments made by former Clinton administration staff about overturned furniture, we should explain that two of the individuals who observed the overturned furniture have worked in the White House complex for 30 and 32 years, respectively, and that they both observed overturned furniture between approximately 1:00 a.m. and 5:00 a.m. on January 20. Likewise, the White House noted, the director of GSA's White House service center, who served during the Clinton administration, reported seeing overturned furniture. In addition, the White House said that we should report that two other staff said they observed overturned furniture at approximately 12:15 p.m. on January 20.

To address the White House's comment 73 and 36, we added a range of time during which these officials said they observed overturned furniture. However, we did not add, as the White House suggested, that two of the people who observed overturned furniture had worked in the White House for more than 30 years because, except in appendix II, when we discussed

observations regarding past transitions, we did not report how long other people who made observations had worked in the White House complex.

In comment 77, the White House said that we did not report the number of offices in which telephones were observed unplugged or piled up. In addition, the White House said we did not report that the telephone service director was one of the staff who observed telephones that were unplugged or piled up. According to the White House, his observation is particularly noteworthy because he had more than 30 years of experience managing telephone services in the White House complex. Further, the White House said that because the telephone service director observed the unplugged telephones on January 19 and during the early morning of January 20, it is clear that the telephones were not unplugged by the telephone service personnel or by the cleaning staff, who had not yet entered these rooms. Moreover, the White House said that this information is particularly important because of comments provided by former Clinton administration staff who worked in offices where telephones were observed unplugged or piled up. (One of those former staff said that no one in that office unplugged them, and another employee said that there were extra telephones in that office that did not work and had never been discarded.) The White House said that because we had not mentioned that there were observations of unplugged and piled telephones in 25 or more offices, the reader does not know that the comments of the former Clinton administration staff, even if true, explain what happened in only 2 of 25 or more offices. Thus, according to the White House, the reader has no basis for placing the comments of the former staff in context, nor for understanding that the former staff apparently have no explanation for the remaining observations.

We addressed the issue regarding the number of offices in which telephones were observed unplugged or piled up in our response to comment 25 in the section of this appendix pertaining to reporting the number of observations. Regarding the White House's comment about the noteworthiness of the telephone service director's observations, we added to the report that he was one of the staff who made these observations. However, we do not agree that because he made these observations on January 19 and the early morning of January 20, it is clear that the telephones were not unplugged by telephone services personnel or by cleaning staff who had not yet entered these rooms. Although the cleaning crew for the transition started on January 20, according to GSA, cleaning in these offices is continuous. Further, we did not have information regarding when telephone service or other personnel had been in these offices before

the transition. Regarding the White House's assertion that we had deprived readers of information that would place the comments of former Clinton administration staff in context, or help readers understand that the former staff apparently had no explanation for the remaining observations, as previously noted, we did not obtain comments from former Clinton administration staff regarding every observation. Moreover, the fact that certain former Clinton administration staff had no explanations for certain observations does not necessarily mean that they were responsible.

In comment 83, the White House said that we should have reported additional statements made by EOP staff that would counter a statement made by the former senior advisor for presidential transition who said that it would have been technically possible to erase voice mail greetings for most departing staff without also deleting greetings for staff who did not leave at the end of the administration. The White House said that, to present a fair and balanced report, we should have explained that two OA staff, who served during the Clinton administration, disagree with the former senior advisor's statement. According to the White House, they included the OA associate director for facilities management, who worked closely with the former senior advisor and told us that a proposal to delete all voice mail greetings at the end of the Clinton administration was discussed, but they decided not to do it because it would have erased the greetings of all staff, including the 1,700 staff who were not vacating the building. In addition, the White House noted that the OA associate director for facilities management said that it was his decision not to proceed with the proposal, although the former Office of Management and Administration staff, including the former senior advisor, were aware of the decision. Further, the White House said, the OA telephone services coordinator told us that, until November 2001, the EOP's telephone system did not have the capability to erase voice mails all at once. According to the White House, she explained that it was not until November 2001 that the EOP had purchased the software and had performed upgrades to the switch that were necessary to allow voice mails to be deleted on other than a manual basis.

We believe that we provided a sufficient amount of information to reflect the views on this issue that differed with the former senior advisor's statement. Indeed, many of the details that the White House provided in its comments were already reported. In addition to reporting statements made by the telephone service director about erasing voice mail, we reported that the OA associate director for facilities management said that he made the decision not to erase all voice mail messages and greetings at

the end of the administration because doing so would have deleted voice mail for all EOP staff, including staff who did not leave at the end of the administration, and not just for the departing staff. We also reported that the OA telephone services coordinator said that voice mail greetings and messages were not removed on a systemwide basis at the end of the Clinton administration because the EOP had not yet done an equipment upgrade, which was done later. Further, we footnoted the senior advisor's statement to indicate that contrary views on this matter were provided earlier in the report.

In comment 84, the White House questioned a comment made by the former senior advisor for presidential transition who said that regarding reports of telephones that had been forwarded, some telephones were forwarded to other numbers for business purposes at the end of the Clinton administration. He said that some of the remaining staff forwarded their calls to locations where they could be reached when no one was available to handle their calls at their former offices. The White House said that this explanation may sound plausible until one learns how and where the telephones were forwarded and cited, for example, that the chief of staff's telephone was forwarded to a closet. Further, the White House said that, because we have not provided details such as this, the reader does not have the facts to judge the credibility of the statements made by former Clinton administration staff. As noted in our discussion regarding comments 26 and 76, our interview record with the employee who told us that the chief of staff's telephone had been forwarded did not indicate that we were told the telephone was forwarded to a closet. Even if our interview did indicate this, because we did not obtain a comment from former Clinton administration staff on every observation, the former senior advisor's statement did not necessarily address all instances of forwarded calls.

In comment 93, the White House said that, although we reported that the OA director said that the offices were in pretty good shape by the evening of January 22, we had failed to include other people's observations on how long it took to get the offices in shape and provided five examples. However, two of the five additional statements related to telephone service, not trash, and the report had included a statement by the OA associate director for facilities management regarding how long it took to complete the cleaning. We believed that reporting his statement was sufficient.

In comment 98, the White House said that we should have included more statements by EOP staff who said they believed that offices were intentionally or deliberately trashed because we had reported that none of

the 67 former Clinton administration staff we interviewed who worked in the White House complex at the end of the administration said that trash was left intentionally as a prank or act of vandalism. The White House said, for example, that we should have reported an observation by a National Security Council (NSC) employee who said the NSC office was deliberately made to look like someone was communicating a message; the OA director, who said that it looked like there were a large number of people who deliberately trashed the place; and the chief of staff to the president, who said the conditions he observed were more than wear and tear. The White House said that if we had included these statements, it is more likely that the conclusion that these people reached---that what they observed was intentional—is correct. We had already reported the views of the OA associate director for facilities management and a management office employee who said they observed some trash that appeared to have been left intentionally, as well as the observations of other EOP staff who used words such as "extremely filthy" or "trashed out" to describe the conditions they had observed, and that office space contained a "malodorous stench" or looked liked there had been a party. We had also reported observations such as the contents of desk drawers or filing cabinets having been dumped on floors, which were likely to have been done intentionally, but we did not know by whom. However, to address the White House's comments, we added the statements of two other staff cited in its comments.

In comments 101 and 103, the White House said that we should have reported how many cleaning staff were on duty and the number of hours they worked. According to the White House, without that information, the reader has no basis for evaluating (1) comments made by a former Clinton administration employee who worked in an administrative office who said that she did not observe much cleaning of offices before January 20, and that she believed GSA did not have enough supervisors and decision makers to oversee the cleaning; and (2) a statement contained in a letter to us from the former senior advisor for presidential transition and the former deputy assistant to the president for management and administration who said they did not observe any cleaning crews during the evening of January 19 or the morning of January 20. However, we did report the number of GSA and contract staff who cleaned the EEOB during the weekend of January 20 and 21, 2001; when the cleaning began on January 20; the observations of the crew leaders; and the number of hours that the cleaning crew leaders worked on January 20. We believe that this was a sufficient amount of information to report about the cleaning effort. We also reported that, according to the OA associate director for facilities

management, maybe 20 offices were vacant before January 20, and that it took 3 or 4 days after January 20 to complete the cleaning. We attempted to evaluate how many former Clinton administration staff left on January 19 and 20, 2001, which would have helped to determine when the cleaning could have begun. We were provided data indicating when building passes were terminated for EOP staff at the end of the administration, but the White House also informed us that the data were unreliable. We asked the White House to arrange a meeting with an appropriate official to discuss the pass data, but this was not done.

In comment 102, the White House questioned why we included a comment made by the former administrative head of an office who said that he asked 25 professional staff to help clean the office before he left. The White House said this comment was irrelevant because no one alleged that this particular office was left dirty, and that we had misled the reader by including it in the report because we did not explain that it does not rebut or relate to any observation. In contacting former Clinton administration staff, we not only sought any explanations they had regarding the observations, but also asked for their observations regarding the condition of the White House complex during the transition. In this case, although it did not rebut a specific observation about his former office, the former official explained the condition of his office at the end of the administration. (He also said that the EEOB and the West Wing were "filthy" at the end of the administration, but that he did not believe that trash was left as an act of vandalism.) However, for the purposes of clarification, we added to the report that no one told us that this office was dirty.

In comment 104, the White House said that a statement by a former office manager in which an EOP employee said it appeared that a pencil sharpener was thrown against the wall and that pencil shavings were on the floor did not rebut this observation. The former office manager said that a pencil sharpener in that office did not work and may have been placed on the floor with other items to be removed. The White House noted that an employee told us that two pencil sharpeners were found broken and on the floor with shavings. In addition, the White House noted, with respect to one of the two pencil sharpeners, there was a distinct mark on the wall where the pencil sharpener had struck. We recognize that the former manager's comments did not address both pencil sharpeners and the mark on the wall, but they could explain why a pencil sharpener was found on the floor. We only reported what he told us in response to the observation.

In comment 109, the White House noted that the content of the message written inside a desk that was dated January 1993 was neither profane nor disparaging of the incoming president or his administration. The report did not indicate that it was, and we did not describe the specific content of similar messages that were found during the 2001 transition, so we did not revise the report.

In comment 117, the White House said that the descriptions provided by former Clinton administration staff regarding the condition of the White House office space during the 1993 transition in the report contain more detail than the descriptions provided regarding the 2001 transition. We do not believe that the descriptions provided regarding the 1993 transition are more detailed than were provided regarding the 2001 transition. Further, in addressing comment 98, we added the statements of two additional staff who had provided detailed descriptions of the condition of the office space during the 2001 transition.

Past Transitions

In comments 33 and 110, the White House said we failed to report the statements of several staff members who said that the damage was worse in 2001 than during previous transitions. Comment 33 pertained to the letter portion of the report, where we summarized the information provided in appendix II. To address the White House's comments, we added in appendix II the statement of another official who said that the condition of the White House complex was worse in 2001 than previous transitions. We also note that our records of many of those interviews, as well as the quotes the White House provided in its comments, do not necessarily indicate that they were referring to damage observed, but to trash.

The White House also said in comment 118 that, while pranks and damage may have been observed in prior administrations, the reported observations are not the same in number or kind as those observed during the 2001 transition, and we failed to mention this in the report, which hampers the reader from drawing his or her own conclusion. In addition, the White House also said that we seem to overstate the extent of damage reported during previous transitions and did not quantify the number of incidents observed. However, we clearly indicated that only a limited number of people were available to comment on previous transitions. Further, we lacked definitive data that would allow us to compare the extent of damage, vandalism, and pranks during the 2001 transition to past ones, such as records of office inspections. Moreover, although fewer in

number, many of the observations that were made regarding previous transitions were of the same kind that were observed during the 2001 transition, such as missing office signs and doorknobs, a message written inside a desk, prank signs and messages, piles of furniture and equipment, and excessive trash. In addition, observations regarding the 1993 transition included messages carved into desks, which were not observed during the 2001 transition. One significant difference between the 2001 and earlier transitions is that no one reported observing keyboards with missing or damaged keys during previous transitions.

In comment 33, the White House said that, when we reported that piles of equipment were observed (by only one person), we failed to explain that the telephone service director said that he never encountered any problems with the telephones during the 1993 transition, that perhaps some telephones were unplugged, but "that would be it." According to our interview record, this official also said that every transition has some pranks and said that unplugging telephones is a "standard prank." Further, in comment 115, the White House attributed observations of piles of telephones during the 1993 transition to a statement made by the telephone service director who said that he was instructed to get rid of the "Republican phone system," which the White House said apparently resulted in the replacement of all telephones. However, our scope of work did not include reviewing the installation of a new telephone system in the White House complex around the time of the 1993 transition to determine if it could relate to the piles of telephones that were observed at that time.

Also in comment 33, the White House said, with respect to a statement in the draft report that observations regarding previous transitions included missing building fixtures such as office signs and doorknobs, that no other building fixtures besides office signs and doorknobs were observed. Accordingly, we revised the report to indicate that office signs and doorknobs were the only building fixtures reported being observed missing during previous transitions.

The White House also said, regarding a statement that messages were carved into desks, that it is aware of only one observation of a message written inside a desk, which the White House noted, for some reason, we repeated in the sentence in the report that followed. Further, the White House said, there were only three observations of carvings in desks used by staff who served only during the Clinton administration. The observations of three messages carved into desks were made by former Clinton administration staff, as reported in appendix II. The discussion regarding

previous transitions contained in the letter portion of the report combined the observations by current EOP staff and former Clinton administration staff. We mentioned the writing that was seen inside of a desk because we observed it, and it contained a date indicating when it was written. Further, we do not understand why the White House noted that there were only three observations of carvings in desks by people who served "only" during the Clinton administration. Many of the observations that were reported regarding the 2001 transition were by staff who served only during the Bush administration.

In comment 111, the White House said that we failed to mention that the director of GSA's White House service center had observed only two transitions (1989 and 2001), and that he only heard that doorknobs were missing during the 1989 transition, but did not observe them himself. Accordingly, we deleted his statement that doorknobs are favorite souvenirs of departing staff.

Also in comment 111, the White House said that the telephone service director did not say that office signs were missing in previous transitions, but only during one prior transition. According to the White House, he said that when the Carter administration left office, door signs were missing and cords were unplugged. According to our interview record, this official told us that, during previous transitions, telephone cords were unplugged and some door signs were missing. He told us that some problems were found when Carter administration staff left, although he could not recall any specific examples.

In comment 112, the White House noted that the director of GSA's White House service center said that he observed little in the way of damage, vandalism, or pranks during the 2001 transition, so when he said the condition of the office space during the 2001 transition was the same as what he observed during the 1989 transition, this means that he claims not to have observed much in either transition. For the purposes of clarification, we added that he said that he observed little during the 2001 transition in terms of damage, vandalism, or pranks.

In comment 113, the White House said that what the GSA acting administrator said in his March 2, 2001, letter may be misleading because he referred only to real property and not to the telephones, computers, furniture, office signs, etc., that were the focus of the damage, vandalism, and pranks that occurred during the 2001 transition. Some of the observations made by EOP staff, such as holes in walls and missing paint

on walls, did relate to real property. To address the White House's comment, we added a definition of real property.

In comment 116, the White House noted that we included a statement by a former Clinton administration employee who said that the damage that was observed in the 1993 transition was intentional, but did not include similar statements made by EOP staff about the 2001 transition. As noted in our discussion regarding comment 68, we included the statements of some individuals who told us they believed the incidents they observed were done intentionally and some individuals who told us they did not believe what they observed was done intentionally. However, we did not include all statements made by all individuals about views on whether things were done intentionally. In any event, without having observed the incidents being carried out, people's views on whether incidents were intentional or not were speculative.

In comment 118, the White House objected to a statement in the report that, according to the March 1981 issue of the *Washingtonian* magazine, incoming Reagan administration staff had some complaints about the condition of the EEOB that were similar to observations made by EOP staff in 2001. The White House said that the allegations are "hardly" similar to what was found in the 2001 transition and, by analogizing the circumstances, we trivialized what was observed in 2001. Although the *Washingtonian* certainly did not cite as many observations regarding the 1981 transition, the types of observations were indeed similar, such as memoranda taped to walls, pieces of damaged and dirty furniture, and a dirty refrigerator. Further, according to the *Washingtonian*, a visitor to the EEOB in 1981 described the building as being "trashed," which is the same word used by some EOP staff to describe its condition during the 2001 transition.

Other

In comment 2, the White House said that we misidentified the units that comprise the EOP and incorrectly referred to EOP units as agencies. We addressed this comment in the White House's general comment regarding use of the term "EOP."

In comment 21, the White House said that the report should have identified the name of the office where the cellular telephones could not be located and that the report suggested that we had interviewed all of the former employees of the Office of the Vice President, which it said was not true. We did not identify the names of offices in the report unless they were

relevant to the observation or comment. We had no reason to identify the name of this office, nor did the White House explain why we should have. Also in comment 21, the White House said the report suggested that we had interviewed all former employees of the office of the vice president, and that all former staff from that office said they did not take them, which is not true. Accordingly, we clarified the report to indicate that the former occupants of offices during the Clinton administration whom "we interviewed" where items were observed missing said that they did not take them.

In comment 34, the White House said that it had repeatedly told us that some current EOP staff who also worked during the Clinton administration believe that check-out procedures were often not followed at the end of the administration, and that building passes in particular were not turned in. However, as indicated in appendix III, we did not review whether these check-out procedures were followed because it was not within the scope of our review. Further, this information was provided to us orally by an associate counsel to the president, not directly by any EOP staff with responsibilities in this area. Moreover, we referred to a check-out procedure in appendix III as a means of indicating that it did not include an office inspection.

In comment 39, the White House disagreed with the statement that, in the overwhelming majority of cases, one person said that he or she observed an incident in a particular location. According to the White House, in many, if not most, cases, more than one person reported the same incident in the same location. We concluded from a careful review of all of the observations that, although generally more than one person observed the same types of incidents, in the overwhelming majority of cases, only one person said that he or she observed an incident in a particular location.

In comment 40, the White House disagreed with a statement in the report that, in some cases, people said that they observed damage, vandalism, and pranks in the same areas where others said they observed none. The White House said that, without a specific description of the instances where one current staff member recalled seeing something and another expressly disavowed seeing the same thing, it was impossible to know whether the apparent conflict in testimony could be reconciled or whether our statement is factually accurate. The White House also said that the vague statement provided no indication of how many conflicts existed or what types of incidents were involved. Further, the White House cited two examples that it said we had indicated the sentence referred to, and said

the observations and circumstances indicated in those examples were not instances of a direct conflict where one person said he or she observed damage in a location where others observed none.

In the examples the White House said we had referred to, the White House excluded the statements made by former Clinton administration staff and a National Archives and Records Administration (NARA) official who were working in the EEOB in the late morning of January 20. In those comments, people said they did not observe damage, vandalism, and pranks in the late morning of January 20 in the same rooms where others said they had observed them later that afternoon. For example, two former occupants of an office where furniture was observed overturned in the afternoon of January 20 said they left between 10:00 a.m. 11:55 a.m. that day and did not observe any overturned furniture. In another situation, the former senior advisor for presidential transition said that when he was in a certain office after 11:00 a.m. on January 20, he did not see a broken glass top smashed on a floor or files dumped on a floor, which were observed there during the afternoon of January 20. Further, as noted in the report, a NARA official said that, although she did not remember the specific rooms she went to during the morning of January 20, she went to various offices in the EEOB with the former senior advisor for presidential transition around 11:00 a.m. that day and did not see any evidence of damage, vandalism, or pranks. In reporting the comments of former Clinton administration staff regarding these situations, we clarified when the EOP staff made the observations.

In comment 94, the White House said that we did not accurately quote what the OA associate director for facilities management told us about cleaning. We had reported that he said that "about 20" offices were vacant before January 20 and that it took 3 or 4 days after January 20 to complete the cleaning. However, the White House said that this official actually said that there was "some list of offices that could have been cleaned before the 20th," and that the list was given to the director of GSA's White House service center, and that there were "not a lot of offices on the list"—"maybe 20." Although we were not directly quoting this official when we reported that he said "about 20" offices were on the list, our interview record agreed with the White House's comments that he said there were "not a lot" of offices on the list and that "maybe 20" were on it, and we revised the report accordingly. The White House also indicated that this official said that it took "3 to 5 days" to complete "just the cleaning." However, our record indicated that he said that it took 3 or 4 days after January 20 to complete the cleaning, and we did not revise the report in that regard.

In comment 96, the White House said that it believed we had misquoted the OA associate director for facilities management when we indicated he said that it would have taken an "astronomical" amount of resources to have cleaned all of the offices by Monday, January 22. Rather, the White House indicated that he said that they could not have had enough people to clean it by January 22 because the offices were dirtier than in past transitions. The White House also noted that the official said that, in response to a question about whether it was legitimate to think people could start working in the complex on Sunday, January 21, he replied that, yes, in his opinion, people should leave their offices in an orderly fashion. We checked our record of interview with this official and believe that we accurately reported his comments, and we also believe that they are substantially the same as what the White House indicated in this comment. For example, we had reported that this official said that there was more to clean during the 2001 transition than during previous ones and provided the reasons why; he said that, in his opinion, departing staff should have left their offices in a condition so that only vacuuming and dusting would have been needed. Thus, we did not believe that any revisions were needed to the report regarding this comment.

In comment 107, the White House said that it was not accurate for us to indicate that the statement that trucks were needed to recover new and usable supplies generally was not corroborated. According to the White House, the associate director for the general services division told us that because the excess supplies had been dumped in the basement hall and were piling up down there, leaving much of it unusable, he instructed his staff to take the supplies to the off-site warehouse where the staff could re-sort the supplies and salvage what was reusable. The White House also noted that eight truckloads were needed to recover these new and usable supplies from the basement, and had these trucks not been dispatched, all of the supplies, instead of just a portion, would have been rendered unusable; therefore, the statement was corroborated. However, when we interviewed this official, he said that the statement contained in the June 2001 list that six to eight 14-foot trucks were needed to recover new and usable supplies that had been thrown away "bothered" him. He said that nothing usable was thrown away intentionally. Further, although trucks were reportedly used to transport supplies from the EEOB to the warehouse so that they could be sorted and to salvage what could be used, as indicated in the report, the former senior advisor for presidential transition said that the supplies were brought to the basement of the EEOB so that staff could obtain them from there, rather than obtaining them from

the supply center. Therefore, we could not corroborate the portion of the statement in the June 2001 list that supplies had been "thrown away."

In comment 120, the White House said that we failed to report two of the factors that OA officials, who have been through many transitions, identified as contributing to the problems found in the 2001 transition. First, the telephone service director said that he felt hampered in doing his job because he was not allowed to have any contact with the incoming administration. According to the White House, he indicated that, in the past, he was allowed to confer with incoming staff regarding their telephone needs and expectations; but this was not permitted during the 2001 transition. Likewise, the White House said, the OA director said that this transition was unusual because, for other transitions, there was a transition team from the new administration on-site in the complex but, during the 2001 transition, the incoming administration did not get access to the space until 3 days before the inauguration and did not get "legacy books," (books that explain how things work within the complex and within particular offices) until after the inauguration.

We did not evaluate the transition coordination issues that the White House raised in this comment because they were outside the scope of our review. However, former Clinton administration staff did provide some related information. The former senior advisor for presidential transition said that some Bush administration staff were given walk-through of offices in the weeks before January 20, that officials from the president-elect's staff attended several meetings before January 20, and that each office was instructed to prepare briefing books for the incoming Bush staff. Further, the deputy assistant to the president for management and administration said the president-elect's staff were involved in planning the transition and had an unprecedented level of access. Because we did not evaluate these issues, we are not in a position to comment on them.

Also in comment 120, the White House said that a number of longtime employees, such as the OA associate director for facilities management, told us that problems could have been averted or remedied if former Clinton administration staff had vacated their offices earlier. The White House noted that this official said he observed a woman watching television in her office on January 20 and turning it off and leaving precisely at noon. Further, the White House said that 325 passes of White House Office employees were terminated on January 19 and 20, 2001. As indicated in our discussion regarding comments 101 and 103, we attempted to evaluate how many former Clinton administration staff left on January

19 and 20, 2001, which would have helped to determine when the cleaning could have begun. As previously noted, we were provided data indicating when building passes were terminated for EOP staff at the end of the administration, but the White House also informed us that the data were unreliable. We had asked the White House to arrange a meeting with an appropriate official to discuss the pass data, but this was not done.

Changes Made to the Report

We revised the report, as appropriate, to address the White House's comments 1, 3, 7, 37, 50, 52, 53, 63, 85, 86, 88, 89, 95, 114, and 119.

Comments from the General Services Administration



GSA Public Buildings Service

May 13, 2002

Mr. Bernard L. Ungar
Director, Physical Infrastructure Issues
General Accounting Office
Washington, D.C. 20548

Dear Mr. Ungar:

Thank you for the opportunity to review draft report GAO-02-360, "The White House: Allegations of Damage During the 2001 Presidential Transition." We have carefully reviewed the draft report.

The General Services Administration (GSA) agrees with the two recommendations the General Accounting Office (GAO) has made with respect to the logistics of future transitions. GSA, as you have indicated in your report, is responsible for the physical structure of the office space in the White House complex, and further, is responsible for operations and maintenance in the office space including, but not limited to, cleaning. During Presidential transitions, we make every effort to meet the very considerable demands that are place on us by virtue of several hundred staff moving out while several hundred are moving in. For this reason, we believe that our ability to carry out our responsibilities in future Presidential transitions will be strengthened by working with the Office of Management and Administration for the White House office to develop procedures for office space inspection and cleaning and office space preparations. Improved communication and scheduling strategies will be an integral part of these procedures, as reflected in your recommendations.

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405-0002
www.gsa.gov

Thank you again for the opportunity to review the draft report.

Sincerely,

Paul Chistolini

Paul Chistolini
Deputy Commissioner

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September 2003

HUMAN CAPITAL: DHS Personnel System Design Effort Provides for Collaboration and Employee Participation

United States General Accounting Office

GAO

Report to Congressional Requesters

September 2003

HUMAN CAPITAL

DHS Personnel System Design Effort Provides for Collaboration and Employee Participation



GAO-03-1099

September 2003

HUMAN CAPITAL

DHS Personnel System Design Effort Provides for Collaboration and Employee Participation

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-03-1099, a report to congressional requesters

Why GAO Did This Study

The success of the transformation and implementation of the Department of Homeland Security (DHS) is based largely on the degree to which human capital management issues are addressed. Recognizing this, the legislation creating DHS provided it with significant flexibility to design a modern human capital management system.

Congressional requesters asked GAO to describe the process DHS has in place to design its human capital system and involve employees, and analyze the extent to which this process reflects elements of successful transformations.

What GAO Recommends

As the process to develop and implement a new human capital system at DHS moves forward, we recommend that the Secretary of DHS and Director of OPM ensure that the human capital management system is designed to accomplish the mission, objectives, and goals of the department. In addition, we are recommending that the Secretary ensure that the communication strategy used to support the human capital system maximizes opportunities for employee involvement.

DHS and OPM commented on a draft of this report and generally agreed with its content. The report was revised to reflect agency comments.

www.gao.gov/cgi-bin/getrpt?GAO-03-1099.

To view the full product, including the scope and methodology, click on the link above. For more information, contact J. Christopher Mihm at (202) 512-6806, or mihmj@gao.gov.

What GAO Found

The effort to design a human capital management system for DHS generally reflects important elements of effective transformations.

- Leadership. One of the strengths of the effort to transform the culture of organizations going into DHS has been the on-going commitment of both DHS and Office of Personnel Management (OPM) leaders to stimulate and support the effort to design a human capital system.
- Strategic Goals. DHS is currently developing a strategic plan. Although DHS human resource leaders are included on the strategic planning team, it will not be complete until the end of September 2003. Consequently, DHS will need to ensure that the development of the human capital policy options is integrated with the accomplishment of DHS programmatic goals as defined in the forthcoming strategic plan. Such integration is important to ensure that the human capital system enables the department to acquire, develop, and retain the core competencies necessary for DHS to accomplish its programmatic goals.
- Key Principles. The DHS Secretary and OPM Director outlined four principles to serve as a critical framework for the human capital system. These principles appropriately identify the need to support the mission and employees of the department, protect basic civil service principles, and hold employees accountable for performance.
- Timeline. Agency officials established an ambitious 9- to 10-month timeline for completing the design process, aiming to issue final regulations in early 2004. Some DHS stakeholders we interviewed expressed concerns about the compressed schedule. Officials leading the design effort report the aggressive schedule is necessary to relieve employee anxiety and maximize the time available for implementation.
- Design Team. The design team includes staff from multiple organizational units within DHS, OPM, and the three major unions.
- Communication. DHS recently finalized a communication plan that provides a structured and planned approach to communicate with DHS stakeholders regarding the human capital system. Moving forward, DHS will need to provide adequate opportunities for feedback once the options are released.
- Employee Involvement. Employees are provided multiple opportunities to be included in the design process, including participation in the Core Design Team, the Town Hall meetings, the field team, the focus groups, and an e-mail mailbox for employee comments.

Experience has shown that in making major changes in the cultures of organizations, how it is done, when it is done, and the basis on which it is done can make all the difference in whether it is ultimately successful. The analysis of DHS's effort to design a human capital system can be particularly instructive in light of legislative requests for agency-specific human capital flexibilities at the Department of Defense and the National Aeronautics and Space Administration.

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Abbreviations

AFGE	American Federation of Government Employees
APHIS	Animal and Plant Health Inspection Service
CIA	Central Intelligence Agency
CPDF	Central Personnel Data File
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
FACA	Federal Advisory Committee Act
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Center
FTE	full-time equivalent
INS	Immigration and Naturalization Service
NAAE	National Association of Agricultural Employees
NASA	National Aeronautics and Space Administration
NSA	National Security Agency
NTEU	National Treasury Employees Union
OMB	Office of Management and Budget
OPM	Office of Personnel Management
TSA	Transportation Security Administration

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The Honorable George V. Voinovich
Chairman, Subcommittee on Oversight of Government
Management, the Federal Workforce, and the
District of Columbia
Committee on Governmental Affairs
United States Senate

The Honorable Jo Ann Davis
Chairwoman, Subcommittee on Civil Service and
Agency Organization
Committee on Government Reform
United States House of Representatives

The creation of the Department of Homeland Security (DHS) represents an historic moment for the federal government to fundamentally transform how the nation will protect itself from terrorism. DHS now has an opportunity—and a responsibility—to transform and integrate a disparate group of agencies with multiple missions, values, and cultures into a strong and effective cabinet department. Together with this unique opportunity, however, also comes significant risk to the nation that could occur if this transformation is not implemented successfully. In fact, we designated this implementation and transformation as high risk in January 2003.[1]

We convened a forum in September 2002 to identify useful practices and lessons learned from major public and private transformations that DHS and other federal agencies could use to inform transformation efforts.[2] While no two mergers or transformation efforts are exactly alike and the "best" approach depends on a variety of factors specific to each context, there was general agreement on a number of key practices. These practices include:

[1]U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Homeland Security*, GAO-03-102 (Washington, D.C.: January 2003).

[2]U.S. General Accounting Office, *Highlights of a GAO Forum: Mergers and Transformation: Lessons Learned for a Department of Homeland Security and Other Federal Agencies*, GAO-03-293SP (Washington, D.C.: Nov. 14, 2002).

1. **Ensure top leadership drives the transformation**. Leadership must set the direction, pace, and tone and provide a clear, consistent rationale that brings everyone together behind a single mission.

2. **Establish a coherent mission and integrated strategic goals to guide the transformation**. Together, these define the culture and serve as a vehicle for employees to unite and rally around.

3. **Focus on a key set of principles and priorities at the outset of the transformation**. A clear set of principles and priorities serves as a framework to help the organization create a new culture and drive employee behaviors.

4. **Set implementation goals and a timeline to build momentum and show progress from day one**. Goals and a timeline are essential because the transformation could take years to complete.

5. **Dedicate an implementation team to manage the transformation process**. A strong and stable team is important to ensure that the transformation receives the needed attention to be sustained and successful.

6. **Use the performance management system to define responsibility and assure accountability for change**. A "line of sight" shows how team, unit, and individual performance can contribute to overall organizational results.

7. **Establish a communication strategy to create shared expectations and report related progress**. The strategy must reach out to employees, customers, and stakeholders and engage them in a two-way exchange.

8. **Involve employees to obtain their ideas and gain their ownership for the transformation**. Employee involvement strengthens the process and allows them to share their experiences and shape policies.

9. **Build a world-class organization**. Building on a vision of improved performance, the organization adopts the most efficient, effective, and economical personnel, system, and process changes and continually seeks to implement best practices.

Building on the forum, we recently identified specific implementation steps for these key practices.[3] (See app. I). Many mergers do not live up to their potential. Research suggests that the failure to adequately address a wide variety of people and cultural issues is at the heart of unsuccessful mergers and transformations. Therefore, strategic human capital management must be at the center of a successful transformation effort. The legislation creating DHS provided it with significant flexibility to design a modern human capital management system.[4] Specifically, the department may deviate from requirements contained in Title 5 of the United States Code relating to performance appraisals, classification, pay rates and systems,[5] and adverse actions and appeals. However, the department may not deviate from other Title 5 provisions including the merit system principles, prohibited personnel practices, equal employment opportunity, civil service examination and selection, and pay administration.[6] In addition, for hiring employees, the department may take advantage of the governmentwide personnel reform measures contained in the Homeland Security Act of 2002, including using a category rating system when evaluating applicants for employment and selecting qualified applicants for positions using direct hiring procedures.[7] Regulations for the DHS human capital system are to be prescribed jointly by the Secretary of DHS and the Director of the Office of Personnel Management (OPM). The legislation also noted that it is the sense of the Congress that employees be involved in the creation of the new human capital system.

In light of the challenge to transform the organizations joining the department and establish a modern human capital management system, you asked that we undertake a series of human capital engagements to assist DHS in its implementation efforts. As agreed with your office, this is one of several reports we will issue that will track how DHS begins to make use of its new human capital authorities. Specifically, this report

[3]U.S. General Accounting Office, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations*, GAO-03-669 (Washington, D.C.: July 2, 2003).

[4]Public Law 107-296, Nov. 25, 2002.

[5]The department may not however modify Senior Executive pay or fix employee pay in excess of the limitation on aggregate compensation payable under 5 U.S.C. 5307.

[6]Pay administration provisions include premium pay rules.

[7]Interim regulations implementing these authorities were issued by OPM in the *Federal Register* on June 13, 2003. 68 *Fed. Reg.* 35265.

(1) describes the process DHS has in place to design its human capital system and involve employees and (2) analyzes the extent to which this process reflects what we have found to be important elements of successful transformations.

To address our objectives, we reviewed documents relevant to DHS's transformation and personnel system design effort and applicable laws and regulations. These included the April 2003 *Human Resources Systems Design Team Resource Book*, the weekly DHS newsletter, OPM data on DHS employees and unions, the June 2003 Communications Plan, and others. We interviewed officials from DHS and OPM headquarters who are involved in the effort to design the new human capital system. Human resource leaders from the five largest components within DHS were also interviewed – the Transportation Security Administration (TSA), Federal Emergency Management Agency (FEMA), the organizations formerly known as the Immigration and Naturalization Service (INS) and the U.S. Customs Service, and the U.S. Coast Guard – to learn their impressions of the design process. Interviews with officials from the three largest employee unions at DHS – the American Federation of Government Employees (AFGE), the National Treasury Employees Union (NTEU), and the National Association of Agricultural Employees (NAAE) – provided additional insights. We then analyzed the information gathered in light of seven of the nine transformation practices. Practice 6 was excluded from the analysis because the effort to design a human capital system includes the development of a performance management system and Practice 9 was excluded because developing an effective human capital system is one of many efforts required to become a world-class organization. We conducted our work in accordance with generally accepted government auditing standards between March and September 2003.

The description and analysis of DHS's effort to design a strategic human capital management system can be particularly instructive in light of legislation that requests additional authority for human capital management at the Department of Defense (DOD) and the National Aeronautics and Space Administration (NASA). We have consistently supported the need for government transformation and the concept of modernizing federal human capital policies, as underscored in recent testimonies and our January 2003 report which described why we find that strategic human capital management remains a governmentwide high-risk

area.[8] This effort can also prove instructive for future human capital management and reorganization efforts within specific units of DHS as the new department is implemented and transformed over time into a cohesive organization.

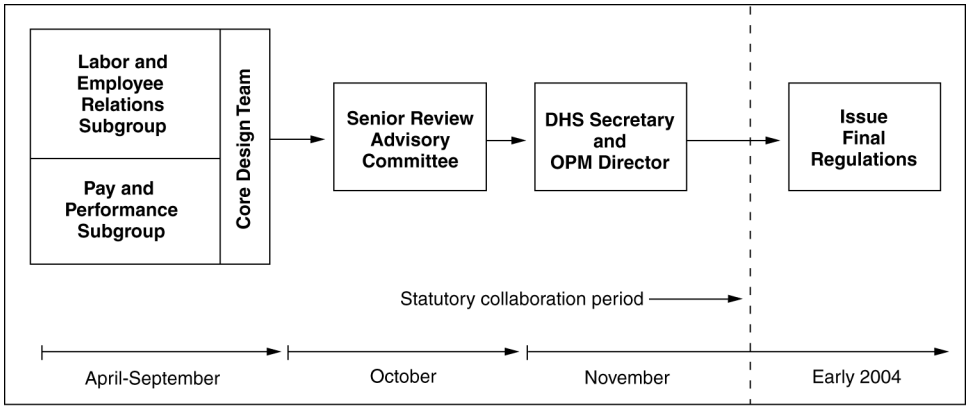
Importantly, while the design process used to develop the human capital system is significant, effective implementation of the system is similarly crucial to effective human capital management in the new department. In short, a successful design effort is essential to, but does not guarantee, effective implementation.

Results in Brief

DHS's and OPM's effort to design a new human capital system is collaborative and facilitates participation of employees from all levels of the department. The process is divided into three stages: research, outreach, and drafting of initial personnel system options; review of the options; and development of proposed regulations. First, the Core Design Team conducted research on human capital approaches, communicated with and gathered feedback from employees, and developed options. Second, the Senior Review Advisory Committee will review these options and forward its recommendations to the DHS Secretary and OPM Director. Third, the Secretary and Director will then propose draft regulations for the human capital system, engage in the statutory collaboration period, and issue final regulations by early 2004. The stages include employees from DHS and OPM, as well as representatives from the department's three largest unions. See figure 1.

[8]U.S. General Accounting Office, *Human Capital: Building on DOD's Reform Effort to Foster Governmentwide Improvements*, GAO-03-851T (Washington, D.C.: June 4, 2003); *High-Risk Series: Strategic Human Capital Management*, GAO-03-120 (Washington, D.C.: January 2003); and *Managing for Results: Using Strategic Human Capital Management to Drive Transformational Change*, GAO-02-940T (Washington, D.C.: July 15, 2002).

Figure 1: DHS Personnel System Design Process



Source: GAO.

This effort to design a human capital management system for DHS generally reflects what we have found to be important elements of effective transformations.

- Ensure top leadership drives the transformation. One of the strengths of the effort to transform the culture of organizations going into DHS has been the on-going commitment of both DHS and OPM leaders to stimulate and support the effort to design a human capital system.

- Establish a coherent mission and integrated strategic goals to guide the transformation. DHS is currently developing a strategic plan. Although DHS human resource leaders are included on the strategic planning team, the final plan will not be complete until late September 2003. Consequently, DHS will need to ensure that the development of the human capital policy options by the Core Design Team is integrated with the accomplishment of DHS programmatic goals as defined in the forthcoming strategic plan. Such integration is important to ensure that the human capital system enables the department to acquire, develop, and retain the core competencies necessary for DHS to accomplish its programmatic goals. Moving forward, it is essential that the Senior Review Advisory Committee, the Secretary, and the Director ensure that the new human capital system is aligned with the DHS strategic plan.

- Focus on a key set of principles and priorities at the outset of the transformation. The Secretary and Director outlined four principles

during the first design meeting in April that have served as a framework for the activities of the Core Design Team.[9] These principles appropriately identify the need to support the mission and employees of the department, protect basic civil service principles, and hold employees accountable for performance.

- Set implementation goals and a timeline to build momentum and show progress. Agency officials established an ambitious 9- to 10-month timeline for completing the design process, aiming to issue final regulations in early 2004. Some DHS component human resource directors and other stakeholders we interviewed expressed concerns about the compressed schedule. Officials leading the Core Design Team report the aggressive schedule is necessary to relieve employee anxiety and maximize the time available for implementation within the 5-year window outlined in the DHS legislation.

- Dedicate an implementation team to manage the transformation process. The membership of the design team includes participants from multiple organizational units within DHS, OPM, and the three major unions.

- Establish a communication strategy to create shared expectations and report related progress. DHS recently completed a noteworthy and substantive communication plan that provides a structured and planned approach to communicate with DHS stakeholders regarding the human capital system. The objectives of the plan are to: raise awareness, disseminate information, and promote a clear understanding of the new human capital system; manage stakeholder expectations and address their concerns; and provide opportunities for a two-way dialogue. Building on its current efforts, DHS will need to continue to provide adequate opportunities for feedback once the options are released, including providing an adequate level of detail on how the new system will impact employees.

- Involve employees to obtain their ideas and gain their ownership. Employees are provided with multiple opportunities to be included in the design process, including participation in the Core Design Team, the

[9]On July 25, 2003, the Core Design Team presented a set of five principles to the Senior Review Advisory Committee as a guide for developing the options to be presented in late September, building on the original four principles.

Town Hall meetings, the focus groups, the field team, and an e-mail mailbox for employee comments. Continued employee involvement is critical as options are identified, regulations are proposed, and the human capital system is implemented.

As the process to develop and implement a new human capital system at DHS moves forward, we are recommending that as the DHS strategic planning effort continues that the Secretary of DHS, in conjunction with the Director of OPM, ensure that the human capital management system is fully integrated with the accomplishment of the department's mission, objectives, and goals. We are also recommending that the Secretary of DHS build on the progress that has been made and ensure that the communication strategy used to support the human capital system maximizes opportunities for employee involvement through the completion of the design process, the release of the system options, and implementation, with special emphasis placed on seeking the feedback and buy-in of frontline employees in the field.

OPM provided written comments on a draft of this report, which are printed in appendix IV. DHS provided technical comments by e-mail.

DHS and OPM generally agreed with the contents of the report. However, both DHS and OPM expressed a concern that we misunderstood the role of the field team in the design process. Each described the role of the field team as more limited than our original understanding. While gathering additional information from DHS, NTEU, AFGE, and NAAE to clarify the role and activities of the field team, we learned that its role evolved over the course of the design effort, that it had no decision-making role in the design process, and that it was used as a recurring focus group. Accordingly, we changed the draft to reflect the field team's current role. DHS and OPM also provided a number of technical suggestions that have been incorporated where appropriate.

Background

The creation of DHS represents enormous leadership challenges, encompassing opportunities in multiple management areas. Sustained and inspired political and career leadership will be essential to successfully implementing the transformation of DHS. Success will also largely depend on its ability to attract and retain the right people; set the appropriate priorities for the department; and build effective partnerships with the appropriate public, private, and not-for-profit sector entities.

Mission and Organization of DHS

In establishing the new department, the Congress articulated a seven-point mission for DHS:

- Prevent terrorist attacks within the United States.
- Reduce the vulnerability of the United States to terrorism.
- Minimize the damage and assist in the recovery from terrorist attacks.
- Carry out all functions of entities transferred to the department, including by acting as a focal point regarding natural and man-made crises and emergency planning.
- Ensure that the functions of the agencies within the department that are not directly related to securing the homeland are not diminished or neglected.
- Ensure that the overall economic security of the United States is not diminished by efforts aimed at securing the homeland.
- Monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

DHS is generally organized into four mission-related directorates: Border and Transportation Security, Emergency Preparedness and Response, Science and Technology, and Information Analysis and Infrastructure Protection.

- The Border and Transportation Security directorate consolidates the major border security and transportation operations under one roof, including the U.S. Customs Service, parts of the Immigration and Naturalization Service (INS), the Transportation Security Administration (TSA), the Federal Law Enforcement Training Center (FLETC), The Federal Protective Service, the Office for Domestic Preparedness from the Department of Justice (DOJ), and part of the Animal and Plant Health Inspection Service (APHIS).
- The Emergency Preparedness and Response directorate integrates domestic disaster preparedness training and government disaster response and includes the Federal Emergency Management Agency (FEMA), the Strategic National Stockpile and the National Disaster

Medical System, the Nuclear Incident Response Team, the Domestic Emergency Support Teams from DOJ, and the National Domestic Preparedness Office from the Federal Bureau of Investigation (FBI).

- The Science and Technology directorate coordinates scientific and technological advantages when securing the homeland and will include CBRN Countermeasures Programs, the Environmental Measurements Laboratory, the National Bio-Weapons Defense Analysis Center, and the Plum Island Animal Disease Center.

- The Information Analysis and Infrastructure Protection directorate accesses and analyzes intelligence, law enforcement data, and other information involving threats to homeland security and evaluating vulnerabilities from state and local agencies, the private sector, and federal agencies such as the Central Intelligence Agency (CIA), FBI, and the National Security Agency (NSA). It includes the Critical Infrastructure Assurance Office, the Federal Computer Incident Response Center, the National Communications System, the National Infrastructure Protection Center, and the energy security and assurance program activities of the Department of Energy.

In addition to the four mission-related directorates, the U.S. Secret Service and the U.S. Coast Guard remain intact as distinct entities in DHS; INS adjudications and benefits programs report directly to the Deputy Secretary as the Bureau of Citizenship and Immigration Services; and the Management Directorate is responsible for budget, human capital, and other general management issues.

DHS's People

DHS has approximately 155,000 civilian positions and 54,000 military positions in the U.S. Coast Guard, for a total of just over 209,000.[10] (See

[10]Based on positions transferred to DHS as of March 8, 2003, according to DHS, and GAO calculations using data from the Central Personnel Data File (CPDF) as of March 31, 2003. Additional positions were scheduled to transfer to the department after this date. Positions include full-time, part-time, and vacant, and do not represent full-time equivalent (FTE) employment or the total number of employees on board. The DHS-provided data are based on determination orders, but one DHS official acknowledged that the data were compiled differently by the various components. Furthermore, these data are preliminary and are expected to be adjusted based on continuing negotiations between DHS and other federal agencies. DHS was authorized 144,901 civilian FTEs and 37,074 military FTEs in the fiscal year 2003 budget, according to DHS. As of March 31, 2003, DHS had 160,201 full- and part-time civilian employees on board, according to CPDF.

table 1.) Of the civilian employees, a vast majority transferred from seven organizations: TSA, INS, Customs, FEMA, the U.S. Coast Guard, the U.S. Secret Service, and APHIS. Of the civilian employees who transferred from these seven organizations, approximately 90 percent are stationed outside the Washington, D.C. metropolitan area. DHS employees work in over 300 metropolitan statistical areas.

Table 1: Positions Transferred to DHS as of March 8, 2003

Originating Department	Originating Agency	Positions Transferred[a]
Agriculture	Import and Entry Inspection[b]	2,655
Commerce	Critical Infrastructure Assurance Office	50
Defense	National Communications System	105
Department of Energy		101
Federal Emergency Management Agency		8,542
General Services Administration		1,713
Health and Human Services		91
Justice	Immigration and Naturalization Service	36,769
Justice	Other	385
Transportation	United States Coast Guard[c]	60,403
Transportation	Transportation Security Administration	68,859
Transportation	Other	40
Treasury	United States Customs Service	22,028
Treasury	United States Secret Service	6,251
Treasury	Federal Law Enforcement Training Center	922
Treasury	Other	191
Total		**209,105**

Source: DHS.

[a]This column reflects positions - full-time, part-time, and vacant - and does not represent FTE employment or the total number of employees on board.

[b]This represents a specific function from APHIS that was transferred to DHS.

[c]This represents both civilian and military U.S. Coast Guard positions.

These employees serve in positions ranging from inspectors, investigators, police, and intelligence to attorneys and administrative services. DHS

employees are compensated under multiple pay and benefits systems, are hired using varied authorities, and undergo performance appraisals with different rating scales and factors.

According to OPM, just over 49,000, or just under one-third, of DHS civilian employees are represented by unions. This includes 16 different unions divided into 75 separate bargaining units. The 3 unions representing the largest number of employees are AFGE, NTEU, and NAAE. AFGE represents almost 33,000 employees who were transferred from INS, the U.S. Coast Guard, FEMA, and others. NTEU represents over 12,000 employees who were transferred largely from Customs. NAAE represents just over 2,000 employees who were transferred from APHIS.

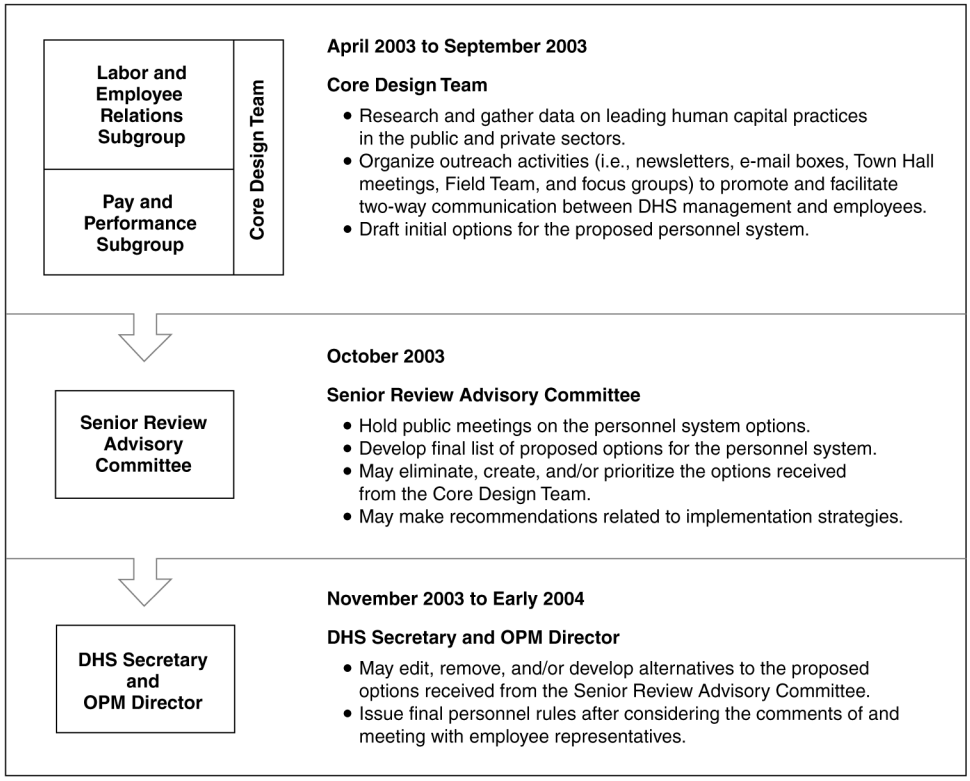
Design Process Provides for Collaboration

DHS's and OPM's effort to design a new human capital system is collaborative and facilitates participation of employees from all levels of the department. The process is divided into three stages: research, outreach, and drafting of initial personnel system options; review of the options; and development of proposed regulations. First, the Core Design Team conducted research on human capital approaches, communicated with and gathered feedback from employees, and developed options. Second, the Senior Review Advisory Committee will review these options and forward its recommendations to the DHS Secretary and OPM Director. Third, the Secretary and Director will then propose draft regulations for the human capital system, engage in the statutory collaboration period, and issue final regulations by early 2004. The stages include employees from DHS and OPM, as well as representatives from the department's three largest unions. This process is described in further detail in appendix II.

As figure 2 shows, the Core Design Team, the first stage of the design process, is responsible for research, outreach, and drafting initial options for the personnel system. This group is led by an equal number of DHS and OPM executives. Members of the Core Design Team, which includes employees from headquarters, the field, and unions, are full-time participants who work on one of two subgroups: (1) pay and performance or (2) labor and employee relations—reflecting the areas of Title 5 from

which DHS may deviate.[11] The work of the Core Design Team is to result in a broad range of options for the Senior Review Advisory Committee by late September 2003.

Figure 2: The Three Stages of the Design Process and Their Roles



Source: GAO.

The second stage of the design process is made of the Senior Review Advisory Committee. The committee's members include top executives from DHS, OPM, and the three major unions and they are advised by a team of external human capital experts. The committee is provided less than a month to review the system options and forward its iteration for the

[11]The Homeland Security Act of 2002 gives DHS authority to deviate from the requirements of: Chapter 43 – performance appraisal; Chapter 51 – classification; Chapter 53 – pay rates and systems (except certain provisions); Chapter 71 – labor-management and employee relations; Chapter 75 – adverse actions; and Chapter 77 – appeals.

Secretary and Director to consider.[12] The committee's time frame for completing this task is October 2003. During the committee's public deliberations, they may choose to eliminate, create, and/or prioritize the options, or may recommend implementation strategies.

Once the Secretary and Director receive the list of options from the Senior Review Advisory Committee, they may edit, remove, or develop alternatives to the proposed options as the third stage of the design process. They expect to announce the proposed regulations in November 2003, which will trigger the statutory collaboration process so final regulations can be issued in early 2004. As called for in the legislation, employee representatives have 30 calendar days to comment and make recommendations. The Secretary and Director are then to follow the provisions of the statutory reconciliation process for no less than 30 days.[13]

DHS and OPM Leadership Stimulates and Supports the Human Capital Transformation

DHS and OPM leaders have consistently underscored their personal commitment to the design process and speak openly in support of it. When the DHS legislation was under consideration, we testified that the single most important element of successful reorganizations is the sustained commitment of top leaders.[14] In our report that describes the key practices for successful mergers and transformations, we note that top leadership that is clearly and personally involved provides stability and an identifiable source for employees to rally around during tumultuous times. The role of top leaders is also to ensure that transformation efforts stay on course by setting priorities, focusing on critical issues, and demonstrating a commitment to change.

[12]An informal "planning committee," or small working group of DHS, OPM, and union senior executives was assembled to provide staff support, highlight issues for discussion during public meetings, and potentially to set the meeting agendas for the Senior Review Advisory Committee.

[13]Section 841 of the Homeland Security Act establishes a process for collaboration with employee representatives to provide notice of the proposed human resources management system, the opportunity to submit comments, and consultation over the recommendations made.

[14]U.S. General Accounting Office, *Homeland Security: Proposal for Cabinet Agency Has Merit, But Implementation Will be Pivotal to Success*, GAO-02-886T (Washington, D.C.: June 25, 2002).

DHS and OPM leaders are fulfilling these critical roles. For example, the DHS Under Secretary for Management and OPM's Senior Advisor for Homeland Security cochair the Senior Review Advisory Committee. Other committee members are officials in key leadership positions at both OPM and DHS and the presidents of the three major unions.

Senior officials from DHS, OPM, and DHS's three largest unions are directly involved in the workings of the Core Design Team. Top leaders of DHS and OPM addressed employees at the Town Hall meetings, expressing their support for the transformation, and solicited feedback from those employees. Specific examples include the Under Secretary for Management writing to DHS employees in April and May 2003 to express her support of the design process and participating in a Town Hall meeting. Additionally, the Under Secretary for Border and Transportation Security participated in several Town Hall meetings to express his on-going support of the design process and to respond to questions from DHS employees. The Under Secretary for Emergency Preparedness and Response and the Commandant of the U.S. Coast Guard also participated in Town Hall meetings. At these meetings, union leaders have stood next to the agency leadership to express their support for the process, according to agency officials. Similarly, OPM's Associate Director for Strategic Human Resources Policy and OPM's Senior Advisor for Homeland Security also addressed DHS employees at Town Hall meetings, and responded to their questions.

DHS Personnel System will Need To Be Integrated with Mission and Program Goals

DHS will need to ensure that the development of the human capital policy options by the Core Design Team is integrated with the accomplishment of DHS programmatic goals as defined in the forthcoming strategic plan. Agency officials indicate that it is their intention that the personnel system design will be consistent with the strategic plan. We have reported, and the President's Management Agenda reiterates, that leading organizations develop their workforce approaches as part of a strategic human capital plan as strategies for accomplishing their mission and programmatic goals. In light of this, we previously stated that the success of the DHS transformation requires the department to link its human capital strategy with its homeland security strategy.[15]

[15]GAO-03-102; and U.S. General Accounting Office, *Homeland Security: Management Challenges Facing Federal Leadership*, GAO-03-260 (Washington, D.C.: Dec. 20, 2002).

DHS is currently developing a strategic plan. This effort began in mid-June and is expected to be completed by the end of September 2003 – a target set by the Office of Management and Budget (OMB). As explained previously, the Core Design Team began its work in late April 2003 and expected to report its proposed options in late September 2003. According to a DHS official leading the strategic planning effort, human capital officials are engaged in drafting the strategic plan. DHS human capital officials confirmed that they have reviewed drafts of the strategic plan.

Moving forward, it is critical that the Senior Review Advisory Committee, the Secretary, and the Director make the link between the new human capital system and the accomplishment of DHS's goals as outlined in the DHS strategic plan. Once a strategic plan is in place, DHS can then develop a strategic human capital plan that, in part, identifies core competencies for staff as a tool for attracting, developing, and rewarding contributions to mission accomplishment. For example, these competencies will be critical to creating a performance management system – a key task of the Core Design Team - that aligns daily operations with organizational goals and creates a "line of sight" and shows how team, unit, and individual performance can contribute to organizational results. We recommended that DHS, in conjunction with OPM and OMB, create an effective performance management system in December 2002.[16] Furthermore, if DHS decides to design and implement a pay-for-performance system, a set of strategic goals and validated competencies will be required so that DHS can identify the outcomes and results that employees are to be rewarded for accomplishing.

Process Steered by Guiding Principles

The Secretary and Director outlined four principles to serve as a framework for the Core Design Team during their first meeting in April:

- The system has to support both the mission and the people charged with implementing the mission.

- Design Team members must leave preconceived notions at the door. They have an opportunity and responsibility to create a 21st century personnel system that is fair, performance based, and flexible.

[16]GAO-03-260. We recently outlined key practices for effective performance management systems in *Results-Oriented Cultures: Creating a Clear Linkage Between Individual Performance and Organizational Success*, GAO-03-488 (Washington, D.C.: Mar. 14, 2003).

- DHS must preserve and protect basic civil service principles.

- DHS must hold people at all levels accountable for performance. The agency will link individual performance to organizational goals, with the ability to identify and reward exceptional service and deal with chronic poor performance. DHS can be a department that stands as a model of excellence.

These principles can serve as core values for human capital management at DHS – values that define the attributes that are intrinsically important to what the new organization does and how it will do it. Furthermore, they represent the institutional beliefs and boundaries that are essential to building a new culture for the organization. Finally, they appropriately identify the need to support the mission and employees of the department, protect basic civil service principles, and hold employees accountable for performance.

On July 25, 2003, the Core Design Team presented a set of five principles to the Senior Review Advisory Committee as a guide for developing the options to be presented in late September. These principles were drafted by the Core Design Team and reviewed by the field team, using the original four principles proposed by the Secretary and Director as a guide. The five principles are to ensure that the options developed are (1) mission centered, (2) performance focused, (3) contemporary and excellent, (4) generate respect and trust, and (5) based on merit system principles and fairness.

Consistent with the principles outlined by the Secretary and Director and those presented to the Senior Review Advisory Committee, our interviews with the human resource leaders in the five largest DHS components identified two areas that they would like the new human capital system to address: the new DHS personnel system should provide for competitive, performance-based pay and should give managers the ability to quickly hire the right people with the skills the agency needs. First, individuals we interviewed hoped that the new system would address their concerns about the disparities in pay rates across DHS and expressed an interest in implementing performance-based pay, linked to the accomplishment of

DHS's mission, such that employees are more accountable.[17] Two indicated that they would like the Core Design Team to propose legislation to address the differences in premium pay that currently exist. Second, and beyond the immediate task of the Core Design Team, there was an overwhelming interest in simplifying the hiring process.[18] Officials in one component expressed their discontent with the amount of time between when a position is announced and when it is actually filled. One executive expressed an interest in more flexibility in hiring because the perception is that the current hiring process is only understandable to those already in the federal government.[19]

Ambitious Timeline Established

DHS and OPM established a 9- to 10-month timeline for completing the design process with the expectation that the final regulations will be issued in early 2004. Agency officials have publicized this timeline at Town Hall meetings across the country. Our reports on the successful practices of mergers and transformations have noted that the establishment of a timeline with specific milestones allows stakeholders to track the organization's progress towards its goals. Publicizing the timeline and meeting its milestones can illustrate building momentum and demonstrate that real progress is being made.

The design process officially began in early April 2003 when the Core Design Team convened for a 2-week leadership conference to learn about the various human capital management systems within the component agencies as well as those in other federal agencies and private firms. The Core Design Team began its research full time in late April. This team is expected to present its broad range of options to the Senior Review

[17]We have recently reported on leading practices in performance management and performance-based pay. For example, see U.S. General Accounting Office, *Human Capital: Building on the Current Momentum to Address High-Risk Issues*, GAO-03-637T (Washington, D.C.: Apr. 8, 2003); and GAO-03-488.

[18]As stated previously, the department may not deviate from the Title 5 provisions regarding civil service examination and selection procedures. However, DHS has the opportunity to address some of its hiring concerns through governmentwide human capital reform provisions in the Homeland Security Act of 2002, which allow for category-based rating and selection procedures and the ability to use direct-hire procedures.

[19]We have recently reported on major challenges in the federal hiring process. For more information, see U.S. General Accounting Office, *Human Capital: Opportunities to Improve Executive Agencies' Hiring Processes*, GAO-03-450 (Washington, D.C.: May 30, 2003).

Advisory Committee in late September 2003. The Senior Review Advisory Committee is allotted less than a month to develop its set of options in October 2003. The Secretary and Director will then select the options that will be submitted as officially proposed regulations available for comment. They expect to announce the proposed regulations in November 2003, which will trigger the statutory collaboration process so final regulations can be issued in early 2004.

Although the establishment of a clear timeline is positive, a majority of DHS stakeholders we interviewed expressed concerns about its compressed schedule. There is some understanding that the timeline reflects an effort to take into account the final regulations in preparing the fiscal year 2005 budget that is submitted to the Congress in early 2004. However, a number of human resource directors said the "self-imposed, short" timeline would pose significant challenges for the Design Team. One director commented that the timeline was "ambitious" considering the amount of information that needs to be collected and analyzed. Most directors agreed that the lack of sufficient time to perform these tasks could prevent the Design Team from completing its work or cause it to propose options that had not been thoroughly researched. Furthermore, another stakeholder suggested that the timeline appears to allocate too much time to the development of options and not enough time to the consideration of which options to adopt. On the other hand, DHS and OPM leaders of the design effort agree that the timeline is aggressive, but said that a shorter time frame will serve to minimize employee anxiety. In addition, they said a tight design time frame is needed to provide adequate time for implementation, evaluation, and modification within the 5-year statutory window available for establishing the new system.

While it is appropriate to develop and integrate the human capital systems within the department in a quick and seamless manner so that the department can begin to function as a cohesive entity, moving too quickly or prematurely can significantly raise the risk of doing it wrong. Having an ambitious timeline is reasonable only insofar as it does not impact the quality of the human capital system that is created.

Design Participants Represent a Mix of DHS and OPM Employees

Overall, the members of the Core Design Team represent multiple organizational components and the three major unions. The composition of the team is important because of the visual sign it communicates regarding which components are dominant and subordinate or whether the new organization is a "merger of equals." It also helps employees see that they are being represented and that their views are being considered in the decision-making process.

The 48 participants of the Core Design Team include personnel experts from OPM, DHS and its component agencies, line employees and managers from DHS headquarters and field offices; and professional staff from the three major unions.[20] Specifically, the Core Design Team is composed of 24 DHS employees, 16 employees from OPM, and 8 professional staff from the unions. This includes 27 staff members, 5 supervisors, 12 managers, and 3 executives.[21] Additionally, just over 60 percent of the members consider themselves human capital professionals,[22] and about two-thirds have experience outside headquarters.[23] (See figs. 3 and 4.) The majority of human resource officials we interviewed consider themselves to be adequately represented on the Core Design Team. Other characteristics of the team members are described in appendix III.

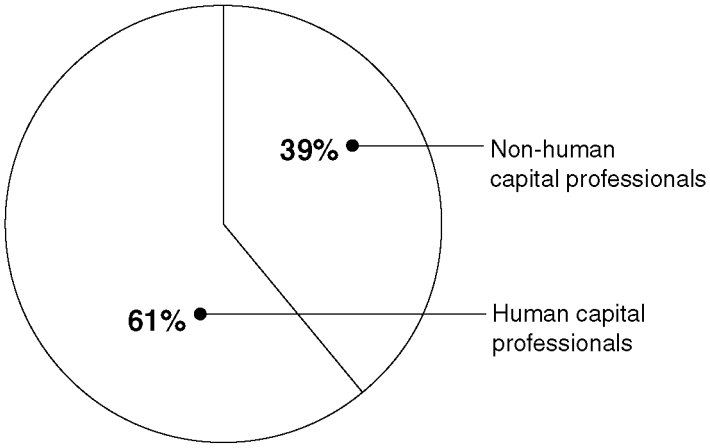
[20]This summarizes data for those members on board as of July 11, 2003. Since that date, membership has changed.

[21]Based on complete data for 47 participants.

[22]Based on complete data for 46 participants.

[23]Based on complete data for 39 participants.

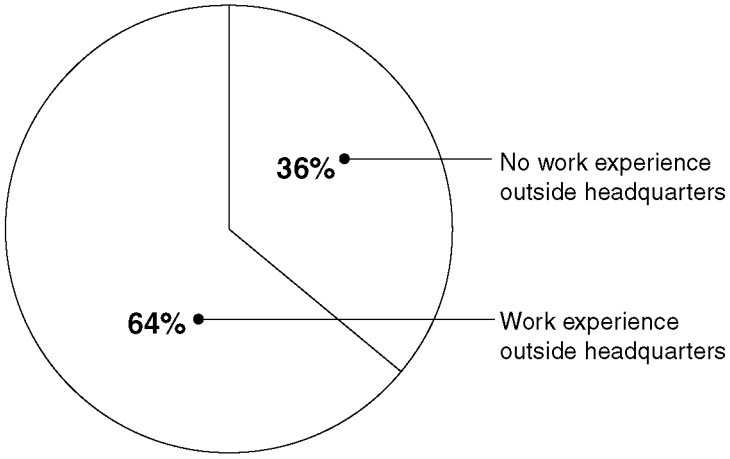
Figure 3: Core Design Team Members Who Describe Themselves as Human Capital Professionals[a]



Source: GAO.

[a]Based on complete data for 46 participants.

Figure 4: Percent of Core Design Team Members with Work Experience Outside Headquarters[a]



Source: GAO.

[a]Based on complete data for 39 participants.

According to DHS officials, DHS-specific slots on the Core Design Team were filled by individuals chosen by agency executives after determining the number of seats to be allocated to the different agency components. In

selecting team members, officials sought representation from across the organizational components of the department, individuals with field experience, and individuals with some expertise in human resources management. Race, gender, and occupational diversity were other factors considered when selecting participants. Additionally, NAAE selected one DHS employee to participate on the team and AFGE and NTEU each selected four professional staff members to participate.

Communications Plan Recently Completed

DHS recently completed a noteworthy communications strategy that provides a structured and planned approach to communicate with DHS stakeholders regarding the human capital system. The objectives of the plan are to: raise awareness, disseminate information, and promote a clear understanding of the new human capital system; manage stakeholder expectations and address their concerns; and provide opportunities for a two-way dialogue. We have recently reported that organizations undergoing a transformation should establish a communication strategy that ensures a consistent message is delivered and seeks to genuinely involve stakeholders in the process.

The communications plan, completed in June 2003, represents an important and substantive effort and contains four broad pieces that are consistent with the key practices we have identified as important to successful communication during transformations. First, the plan identifies internal and external stakeholders, the concerns of each stakeholder group, and the specific communication channels to be used to communicate to that stakeholder group. Second, the plan articulates the key messages to be delivered to each stakeholder group. Third, an action plan identifies the communication channel to be used, the timeline for its use, and the DHS and OPM staff responsible for implementation. Finally, the plan identifies the feedback mechanisms to be used to ensure there is a two-way dialogue.

Moving forward, DHS faces some challenges in successfully implementing its communications plan. First, in addition to the key messages articulated in the plan, DHS will need to provide information to clarify areas of confusion that were identified during our interviews. These include:

- the roles OPM, DHS, and the Senior Review Advisory Committee have in the process;

- the factors that will influence the Secretary and Director's final decisions on which options to propose;

- the role of the contractor in the design process;

- the likelihood of the Core Design Team drafting legislative proposals for areas DHS does not have authority to change (i.e., premium pay and hiring);

- the possibility of there being multiple personnel systems instead of one; and

- the implementation process.

A second challenge will be to ensure that preexisting communication channels within each departmental component deliver a message that is consistent in tone and content with the central communication strategy. We learned from three of the five components we interviewed that they use additional vehicles for providing and receiving information from employees. It may be appropriate to coordinate the messages sent to employees through these additional vehicles to minimize the perception that certain groups of employees are getting the "real" story.

Building on the current effort, DHS will need to provide adequate opportunities for feedback once the options are released, including providing an adequate level of detail on how the new system will impact employees. The feedback mechanisms identified in the communications plan focus on gathering employee feedback prior to the options being released. For example, two of the three feedback mechanisms outlined in the communications plan will be completed before the system options are publicized. DHS also needs to ensure effective communication to employees and stakeholders after the options are released. For example, DHS should consider describing to employees how the comments collected during the Town Hall meetings and focus groups informed the design process. Furthermore, once options are selected, DHS will be faced with communicating how the changes will impact specific jobs, rights and protections, and daily responsibilities. DHS may find it necessary to further tailor and customize the details of the new human capital system to meet the specific needs of employees.

Design Process Provides for Employee Involvement

Employee perspectives on the design of the DHS human capital system are sought through many mechanisms, including the Core Design Team with its members from multiple DHS components, Town Hall meetings, focus groups, the field team, and an e-mail mailbox for employee comments. This reflects the Congress' desire that employees be allowed to participate in a meaningful way in the creation of the new human capital system. Involving employees in planning helps to develop agency goals and objectives that incorporate insights about operations from a front-line perspective. It can also serve to increase employees' understanding and acceptance of organizational goals and improve motivation and morale.

The design process attempts to include employees by creating multiple opportunities for employees to provide feedback. While activity updates were provided in the DHS weekly newsletter and an e-mail mailbox for employees to submit their suggestions and comments was used, multiple Town Hall meetings and focus groups conducted between the end of May and the beginning of July 2003 were held in ten cities across the United States.[24] According to DHS and OPM officials, these cities were chosen to ensure adequate representation of major DHS components and geographic diversity. The goal of the events was to promote two-way communication between management and employees and to gather employee perspectives on the personnel practices that exist in their agency and any proposed changes they would like to see. Each meeting hosted up to 200 DHS employees from the surrounding cities.

At a typical Town Hall meeting, there was a general question and answer segment in which local employees had the opportunity to ask questions about the new system and express their overall concerns about DHS. If participants' questions could not be addressed during the meeting due to time constraints, they could write their questions on note cards and give them to cognizant DHS and OPM officials in attendance. After the meeting, the Core Design Team held a series of six focus group sessions in each city to obtain their input and suggestions for the new human resource system. In most cities, five of the six sessions were devoted to hear employees' views while the remaining session heard the views of supervisors and managers. Participants in the focus groups included both Town Hall

[24]The ten cities were Atlanta, Georgia; Detroit, Michigan; El Paso, Texas; Los Angeles, California; Miami, Florida; New York, New York; Norfolk, Virginia; Seattle, Washington; Washington, D.C.; and Baltimore, Maryland.

meeting attendees and those who were not able to attend the Town Hall session.

The degree to which the information gathered in these sessions was used to inform the design process is not yet evident. On one hand, the Town Hall meetings and focus groups gathered suggestions and concerns from large numbers of employees from multiple organizational components in geographically diverse locations. However, once options for the human capital system are proposed it will be particularly important that employees have adequate opportunities to make a worthwhile contribution.

In addition to the Town Hall meetings and focus groups, a field team made of 32 front-line DHS managers and staff, some of whom were selected by the major unions, was formed. During the design process, the field team provided insights about the department's human capital challenges from a front-line perspective. These insights were gathered during the three meetings of the group -- the field team was convened during the first week of the 2-week April leadership conference, 2 days in July to react to the subgroups' research, and for 2 days again in mid-September to react to the draft personnel system options before their submission to the Senior Review Advisory Committee in late September.

According to documents drafted before the April leadership conference, provided by AFGE and NAAE, it was originally expected that the field team would review the work of the Core Design Team on a "regular basis" and then be used to "test the options against workplace realities." One stakeholder added that it was his initial impression that the field team would serve as an "extension of the Core Design Team," empowered to provide input throughout the entire design process. However, over time, the expected role of the field team evolved to that of a recurring focus group that had no formal decision-making role in the design process. Likewise, as the role for the field team evolved, so did its membership – additional nonunionized DHS employees were added to the team. One DHS official acknowledged that the field team has not had a great deal of involvement in the process, and that the expected role of the team changed over time. Officials in NTEU, AFGE, and NAAE additionally confirmed that the role of the field team changed over time. One union president described the diminished role as a "missed opportunity." This official added that the lack of involvement and minimal communication with the Core Design Team has made it difficult for the field team to make a worthwhile contribution.

Conclusions

DHS and OPM have developed a process to design the new personnel system that is stimulated and supported by top leadership in both organizations and is generally inclusive, both in terms of the membership of the Core Design Team and multiple opportunities to provide input. The process is also guided by core principles and an ambitious timeline. Our research shows that these key attributes are indispensable to successful transformations. This design process provides a model for DHS to consider as it makes other important decisions about the implementation and transformation of the department.

Building on this progress, DHS will need to ensure that the development of the human capital policy options by the Core Design Team is integrated with the accomplishment of DHS programmatic goals as defined in the forthcoming strategic plan. Such a linkage can ensure that the new human capital approaches support and facilitate the accomplishment of DHS's goals and objectives – a fundamental principle of the human capital idea. It will also assist the Core Design Team in identifying human capital programs that support the DHS mission, including the development of a performance management system which creates a "line of sight" that shows how team, unit, and individual performance can contribute to overall organizational goals.

Additionally, DHS has acknowledged that work lies ahead for implementing better, more effective ways to communicate with and receive feedback from its employees. The development of the communications plan is an important and positive step. As DHS implements this plan it will need to provide information on areas of confusion that were identified during our interviews, including clarifying the role of DHS versus OPM in the system development. DHS will also need to ensure that a consistent message is communicated across DHS components. Finally, effective communication, characterized by a two-way dialogue, will be central to engaging employees in the remainder of the design process and ensuring it is transparent. Ultimately, an effective two-way communication strategy can ease implementation efforts. Once options for the human capital system are proposed it will be particularly important that employees have adequate opportunities to make a worthwhile contribution. Substantial involvement of field staff in the development and implementation of the new human capital system is essential given that over 90 percent of DHS civilian employees are in the field. Continued employee involvement will help to strengthen employee buy-in to the new human capital system. It is

important to consider and use the solicited employee feedback to make any appropriate changes once this feedback is received.

Recommendations for Executive Action

DHS has developed an effective process to begin the formation of its new human capital system. Moving forward, it is critical that the new human capital system be linked to the DHS strategic plan and that DHS continue to communicate with and involve its employees. Accordingly, we are recommending that once the strategic plan is completed the Secretary of DHS and the Director of OPM ensure that the options selected for the new human capital system support and facilitate the accomplishment of the department's strategic goals and objectives, as identified in the new strategic plan. In addition, we recommend that the Secretary of DHS clarify the role of the participants in the design effort and other areas of confusion identified by stakeholders during our interviews. Furthermore, consistent with the DHS communications plan, we recommend the Secretary ensure the message communicated across DHS components is consistent, and maximize opportunities for two-way communication and employee involvement through the completion of the design process, the release of the system options, and implementation, with special emphasis placed on seeking the feedback and buy-in of front-line employees in the field.

Agency Comments and Our Evaluation

OPM provided written comments on a draft of this report, which are printed in appendix IV. DHS provided technical comments by e-mail.

DHS and OPM generally agreed with the contents of the report. However, both DHS and OPM expressed a concern that we misunderstood the role of the field team in the design process. Each described the role of the field team as more limited than our original understanding. While gathering additional information from DHS, NTEU, AFGE, and NAAE to clarify the role and activities of the field team, we learned that its role evolved over the course of the design effort, that it had no decision-making role in the design process, and that it was used as a recurring focus group. Accordingly, we changed the draft to reflect the field team's current role. DHS and OPM also provided a number of technical suggestions that have been incorporated where appropriate.

We are sending copies of this report to the Chairman and Ranking Minority Member, Senate Committee on Governmental Affairs; the Chairman and Ranking Minority Member, House Committee on Government Reform; the Chairman and Ranking Minority Member, House Select Committee on Homeland Security; and other interested congressional parties. We will also send copies to the Secretary of the Department of Homeland Security and the Director of the Office of Personnel Management. Copies will be made available at no charge on the GAO Web site at http://www.gao.gov.

If you have any questions about this report, please contact me or Ed Stephenson on (202) 512-6806. Key contributors to this report are listed in appendix V.



J. Christopher Mihm
Director, Strategic Issues

Practices and Implementation Steps for Mergers and Transformation

Implementing large-scale change management initiatives, such as mergers and organizational transformations, is not a simple endeavor and requires the concentrated efforts of both leadership and employees to realize intended synergies and to accomplish new organizational goals. At the center of any serious change management initiative are people—people define the organization's culture, drive its performance, and embody its knowledge base. Experience shows that failure to adequately address—and often even consider—a wide variety of people and cultural issues is at the heart of unsuccessful mergers and transformations. Recognizing the "people" element in these initiatives and implementing strategies to help individuals maximize their full potential in the new organization, while simultaneously managing the risk of reduced productivity and effectiveness that often occurs as a result of the changes, is the key to a successful merger and transformation. Thus, mergers and transformations that incorporate strategic human capital management approaches will help to sustain agency efforts and improve the efficiency, effectiveness, and accountability of the federal government.

GAO convened a forum on September 24, 2002, to identify and discuss useful practices and lessons learned from major private and public sector organizational mergers, acquisitions, and transformations. This was done to help federal agencies implement successful cultural transformations, including DHS. The invited participants were a cross section of leaders who have had experience managing large-scale organizational mergers, acquisitions, and transformations, as well as academics and others who have studied these efforts. We reported the key practices participants identified that can serve as the basis for subsequent consideration as federal agencies seek to transform their cultures in response to governance challenges. Since convening the forum, our additional work has identified specific implementation steps for these practices.[1] (See fig. 5.)

[1]GAO-03-669.

Figure 5: Key Practices and Implementation Steps for Mergers and Transformations

PRACTICE	IMPLEMENTATION STEPS
Ensure top leadership drives the transformation.	• Define and articulate a succinct and compelling reason for change. • Balance continued delivery of services with merger and transformation activities.
Establish a coherent mission and integrated strategic goals to guide the transformation.	• Adopt leading practices for results-oriented strategic planning and reporting.
Focus on a key set of principles and priorities at the outset of the transformation.	• Embed core values in every aspect of theorganization to reinforce the new culture.
Set implementation goals and a timeline to build momentum and show progress from day one.	• Make public implementation goals and timeline. • Seek and monitor employee attitudes and take appropriate follow-up actions. • Identify cultural features of merging organizations to increase understanding of former work environments. • Attract and retain key talent. • Establish an organizationwide knowledge and skills inventory to exchange knowledge among merging organizations.
Dedicate an implementation team to manage the transformation process.	• Establish networks to support implementation team. • Select high-performing team members.
Use the performance management system to define the responsibility and assure accountability for change.	• Adopt leading practices to implement effective performance management systems with adequate safeguards.
Establish a communication strategy to create shared expectations and report related progress.	• Communicate early and often to build trust. • Ensure consistency of message. • Encourage two-way communication. • Provide information to meet specific needs of employees.
Involve employees to obtain their ideas and gain ownership for the transformation.	• Use employee teams. • Involve employees in planning and sharing performance information. • Incorporate employee feedback into new policies and procedures. • Delegate authority to appropriate organizational levels.
Build a world-class organization.	• Adopt leading practices to build a world-class organization.

Source: GAO.

Design Process

The process for creating a DHS human capital management system, jointly developed by DHS and OPM, calls for a design team made up of DHS and OPM employees and union representatives. The process is divided into three stages: research, outreach, and drafting of initial personnel system options; review of the options; and development of proposed regulations. Early 2004 is the expected date for the issuance of the personnel system's final regulations.

Core Design Team Is to Draft Options for the Personnel System

As the first stage of the design process, the Core Design Team engaged in efforts that serve as the basis for the work of the other two components. The 48 team participants included personnel experts from OPM, DHS, and its component agencies; line employees and managers from DHS headquarters and field offices; and professional staff from the three major unions.[1] Members were assigned to one of two subgroups focusing on (1) pay and performance or (2) labor and employee relations. The management consulting firm Booz Allen Hamilton assisted the teams in their efforts.

Pay and Performance and Labor and Employee Relations Subgroups

Each subgroup had two coleaders, one from OPM and one from DHS, to guide them. The subgroups performed their duties both collectively and separately. They convened jointly when there were common issues to discuss or to listen to presentations on human capital systems. For example, the teams heard presentations on the performance management and performance-based pay system at Internal Revenue Service (IRS); the human capital management systems at FBI and NSA; and the performance management, pay banding, and employee appeals process used at GAO.

The pay and performance subgroup focused its work on the three chapters of Title 5 covering performance appraisal, classification, and pay rates and systems. According to the subgroup's leaders, they identified 25 researchable areas and assigned small teams to explore each. Subgroup members were assigned to work on multiple teams. Research areas included the structure of pay ranges, methods for categorizing types of work, and different appraisal and rating methods, for example. When asked about the initial findings of their research, the leaders of the pay and

[1]As noted previously, this summarizes data for those members on board as of July 11, 2003. Since that date, membership has changed.

performance subgroup indicated they identified many pay systems to consider and evaluate.

The labor and employee relations subgroup focused on the three chapters of Title 5 covering labor-management relations, adverse actions, and appeals, to narrow its research. To gain a better understanding of these issues, the group invited agencies such as the Merit Systems Protection Board and the Federal Labor Relations Authority to make presentations. Areas that were researched included different levels of employee, union, and management rights; negotiation models; and how the success of labor relations programs, adverse action systems, and appeals systems is evaluated, for example. According to the subgroup leaders, they also researched both leading and failed practices in their subject areas. The group created interview guides to collect information in a consistent format. When asked about the initial findings of the research, the subgroup reported difficulty in identifying innovative labor relations models that can be applied to the federal system.

Contractor Assistance

To help facilitate its efforts in the design of the personnel system, DHS contracted with management-consulting firm Booz Allen Hamilton to provide support in project management, research, writing, staff support, and communications/publicity. In addition, it was responsible for planning the Town Hall meetings and facilitating the focus groups. According to the subgroup leaders, the contractor was expected to help design the format for the option papers but would not likely be involved in drafting the substance of the options.

Senior Review Advisory Committee Is to Develop Final Set of Options

The Senior Review Advisory Committee, the second stage of the design process, will receive the broad set of options from the Core Design Team. From this set of options the committee is expected to develop its final list of options for the Secretary and Director to consider.[2] Committee members are permitted to eliminate, create, or prioritize the options. In communicating its list of options to the Secretary and Director, it may present the strengths and weaknesses of each. This committee could potentially make recommendations related to implementation strategies.

[2]An informal "planning committee," or small working group of DHS, OPM, and union senior executives was assembled to provide staff support, highlight issues for discussion during public meetings, and potentially to set the meeting agendas for the Senior Review Advisory Committee.

Meetings of the Senior Review Advisory Committee will be governed by the Federal Advisory Committee Act,[3] which requires meetings to be open to the public.[4]

The Under Secretary for Management at DHS and the OPM Senior Advisor for Homeland Security cochair the Senior Review Advisory Committee. Committee members are officials in key leadership positions at both OPM and DHS. OPM representatives include the Senior Advisor for Homeland Security, the Associate Director for Strategic Human Resources Policy, the Associate Director for Human Capital Leadership and Merit System Accountability, and the Senior Policy Advisor to the Director and Chief Human Capital Officer. DHS representatives include the Commissioner of Customs and Border Protection, the Director of TSA, Director of the U.S. Secret Service, Director of the Bureau of Citizenship and Immigration Services, and the Director of Administration. Union representatives are the presidents from AFGE, NTEU, and NAAE. External experts with particular knowledge and experience in human capital management will serve as advisors.

DHS Secretary and OPM Director Are to Propose Regulations for the Personnel System

The Secretary of DHS and the OPM Director make up the final stage of the design process. Once they receive the list of options from the Senior Review Advisory Committee, they may edit, remove, or develop alternatives to the proposed options. The Secretary and the Director will then issue proposed personnel rules for the department. As called for in the DHS legislation, individuals affected by the proposed rules have 30 calendar days to comment and make recommendations. The Secretary and Director are then to follow the provisions of the statutory reconciliation process for no less than 30 days.[5]

[3]5 U.S.C. App. 2, section 10.

[4]Notice of the official establishment of the Senior Review Advisory Committee was posted in the *Federal Register* on June 11, 2003. 68 *Fed. Reg.* 34994.

[5]Section 841 of the Homeland Security Act establishes a process for collaboration with employee representatives to provide notice of the proposed human resources management system, the opportunity to submit comments, and consultation over the recommendations made.

Characteristics of Core Design Team Members

Characteristics of the 48 members of the Core Design Team are described in further detail in tables 2 through 6 below. The tables summarize data for those members on board as of July 11, 2003. Since that date, membership of the Core Design Team has changed.

Table 2: Design Team Membership

Agency	Legacy Unit/Union	Total
DHS	APHIS	1
	Coast Guard	2
	Customs	3
	FEMA	3
	FLETC	2
	INS	5
	Secret Service	2
	Treasury	3
	TSA	3
DHS Total		**24**
OPM		**16**
Union Professional Staff	AFGE	4
	NTEU	4
Total Union Professional Staff		**8**
Total Design Team		**48**

Source: GAO.

Table 3: Who Selected Design Team Member

Current Employer	Organization that Selected Member	Total
DHS	NAAE	1
	DHS	23
DHS Total		**24**
OPM		**16**
Union Professional Staff	AFGE	4
	NTEU	4
Total Union Professional Staff		**8**
Total Design Team		**48**

Source: GAO.

Table 4: Subgroup Membership

Subgroup	DHS	OPM	Union	Total
Pay and Performance	12	9	4	**25**
Labor and Employee Relations	11	6	4	**21**
No data	1	1	0	**2**
Total	**24**	**16**	**8**	**48**

Source: GAO.

Table 5: Human Capital Professional versus Other Experience

Organization	Human Capital Professional	Other Experience	No Data	Total
DHS	12	12	0	**24**
OPM	12	4	0	**16**
Union	4	2	2	**8**
Total	**28**	**18**	**2**	**48**

Source: GAO.

Table 6: Years of Experience of Design Team Members

Agency	Average Years of Federal Experience[a]	Average Years of Experience Outside Headquarters[b]
DHS	21.7	9.9
OPM	21.5	6.5
Union	12.8	4.0
Total	**21.0**	**8.4**

Source: GAO.

[a]Based on complete data for 41 participants.

[b]Based on complete data for 39 participants.

Comments from the Office of Personnel Management



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-1000

OFFICE OF THE DIRECTOR

September 16, 2003

The Honorable David M. Walker
Comptroller General
General Accounting Office
Washington, DC 20548

Dear Mr. Walker:

I welcome the opportunity to respond to GAO's draft report entitled DHS Personnel System Design Effort Provides for Collaboration and Employee Participation. As you can well imagine, I am very pleased that GAO chose to title its report as you have since it reflects the success I believe we have had in ensuring that the process established to develop a new human capital system for the Department of Homeland Security was both collaborative and inclusive. I also very much appreciate the fact that GAO acknowledges that one of the strengths of our design effort has been the on-going commitment of both DHS and OPM leaders to stimulate and support the design effort.

I am sure you are aware that OPM was in the forefront of the effort to assure that the legislation creating DHS provided for the opportunity to create a human capital system that is no longer mired in the long outdated practices of the past—one that is modern and responsive to the needs of today and one that provided to the managers of DHS the flexibility to manage more than 180,000 employees in a manner consistent with the unique mission requirements of the department. I believe it essential that we be able to pay and reward employees for their contributions and not primarily for their longevity and that we be able to create a labor–management program that focuses on collaboration and cooperation rather than on process. We also must have a disciplinary and appeals system that is fair to employees and management alike by allowing for swift and equitable resolution of performance and disciplinary problems rather than a system that typically leads to months and often years of unresolved, costly, and disruptive acrimony. The Homeland Security Act gives us the opportunity to address these concerns, and I am excited about the prospect of creating a system, along with Secretary Ridge, that will make the DHS human capital program a model for good management everywhere.

We have attached a few comments on the draft report that we believe will serve to clarify a few aspects of our effort. Several of our comments focus on portions of your report that relate to the Field Team. Frankly, we believe there is a basic misunderstanding on the part of GAO about the intended role of the Field Team, and several of our comments are specifically targeted to that misunderstanding. In essence, it is important to keep in mind that the members of the Field Team were never intended to be fully participating members of the design effort. Indeed, their role was always intended to be limited in nature and to only reflect our desire to get a field reaction to proposals that were developed by the core design team a couple times during the process and shortly before those proposals were to be submitted to the Senior Review Committee. The Field Team

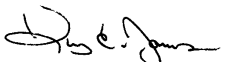
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September 2001

was and is intended to serve as a "reality check" along the way—nothing more, nothing less—and that is how it has served.

We defer to the Department of Homeland Security to provide comments regarding the issues raised by GAO that pertain specifically to the department.

Once again, I appreciate the opportunity to comment on this draft report.

Sincerely,



Kay Coles James
Director

Attachment

GAO Contacts and Staff Acknowledgments

GAO Contacts

J. Christopher Mihm or Edward Stephenson, (202) 512-6806

Acknowledgments

In addition to the persons named above, Ellen V. Rubin, Tina Smith, Eric Mader, and Lou V.B. Smith made key contributions to this report.

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April 2003

HOMELAND SECURITY: Justice Department's Project to Interview Aliens after September 11, 2001

United States General Accounting Office

GAO

Report to Congressional Committees

April 2003

HOMELAND SECURITY

Justice Department's Project to Interview Aliens after September 11, 2001



GAO-03-459

April 2003

HOMELAND SECURITY

Justice Department's Project to Interview Aliens after September 11, 2001

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-03-459, a report to Congressional Requesters

Why GAO Did This Study

As one response to the September 11 terrorist attacks, the Department of Justice (DOJ) initiated a project to interview aliens whose characteristics were similar to those responsible for the attacks. The purpose was to determine what knowledge the aliens might have of terrorists and terrorist activities. GAO was asked to determine

- the criteria DOJ used in compiling the list of aliens to be questioned,
- whether law enforcement complied with DOJ guidance for the project,
- the interview project's status, and
- what information resulted from it.

What GAO Recommends

Because there are indications that the government's antiterrorism efforts will continue to rely, in part, on conducting interview projects with aliens who reside in this country, GAO recommends that the Attorney General initiate a formal review of the project and report on lessons learned. In commenting on a draft of this report, DOJ was silent on GAO's findings, conclusions, and recommendation. DOJ provided technical comments, which GAO evaluated and incorporated, as appropriate. DOJ also expressed two specific concerns about the presentation of information that GAO responded to in the report.

www.gao.gov/cgi-bin/getrpt?GAO-03-459.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Richard M. Stana at (202) 512-8777 or stanar@gao.gov.

What GAO Found

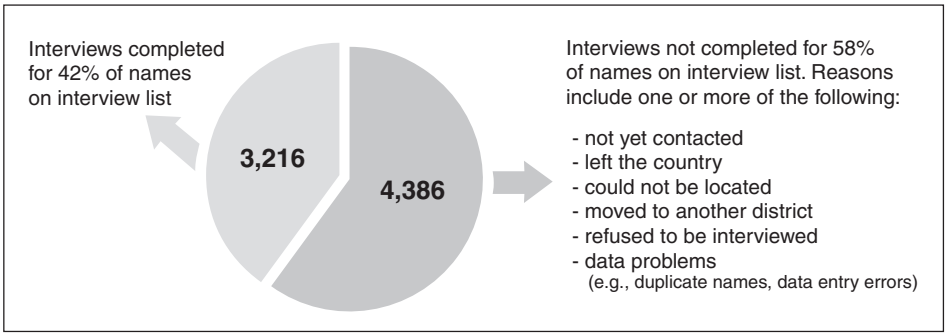
Between September 11 and November 9, 2001, the Immigration and Naturalization Service (INS) compiled a list of aliens whose characteristics were similar to those of the hijackers. DOJ searched its databases for aliens that fit certain characteristics relating to type of visa, gender, age, date of entry into the United States, and country that issued the passport, and identified 7,602 names for interview.

According to law enforcement officials, attorneys for interviewees, and immigration advocates in six U.S. Attorney districts, law enforcement officers who conducted the interviews adhered to DOJ guidelines for the project. The guidelines stressed that the project's objective was information gathering, not criminal investigation, and that participation was to be voluntary. Attorneys for interviewees and immigration advocates agreed that the law enforcement officers adhered to project guidelines, but expressed the view that interviewed aliens did not perceive the interviews to be truly voluntary. They noted that although aliens were not coerced to participate in the interviews, they worried about repercussions, such as future INS denials for visa extensions or permanent residency, if they refused to be interviewed.

Firm and complete information on the project's status is unavailable. As of March 2003, law enforcement officers had interviewed 3,216 aliens—about 42 percent of the names on the list (see figure). However, the list contained problems such as duplicate names and data entry errors, making it difficult to determine how many interviews remained to be completed.

DOJ asserted that the project netted intelligence information and had a disruptive effect on terrorists. But the results are difficult to measure, and DOJ has not fully analyzed all the data obtained from the interviews or how effectively the project was implemented.

Interviews Completed and Not Completed, as of March 2003, from INS's List of 7,602 Names



Source: GAO's analysis of Executive Office for U.S. Attorneys' interview project data.

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Table

Table 1: Branches of Law Enforcement Participating in Project, by District 12

Abbreviations

ATTF	Anti-Terrorism Task Force
DOJ	Department of Justice
EOUSA	Executive Office for U.S. Attorneys
FBI	Federal Bureau of Investigations
FTTTF	Foreign Terrorist Tracking Task Force
INS	Immigration and Naturalization Service

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GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

April 11, 2003

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

The Honorable Russell D. Feingold
Ranking Minority Member
Subcommittee on the Constitution
Committee on the Judiciary
United States Senate

In response to the September 11, 2001, attacks on the World Trade Center and the Pentagon, the U.S. government moved on several fronts in an effort to thwart future terrorist attacks. For example, Congress passed the USA PATRIOT Act,[1] which, among other things, expanded the government's authority to conduct surveillance on suspected terrorists and increased the ability of law enforcement and intelligence agencies to share information. Congress also enacted legislation to form a new executive department, the Department of Homeland Security,[2] to enable the government to address the terrorist threat in a more coordinated manner. The Department of Defense imprisoned enemy combatants at Guantanamo Bay, Cuba, to interrogate them for information that might help prevent future attacks and catch other suspects. The Department of Justice (DOJ) detained aliens in this country whom they suspected of having knowledge of or involvement in terrorist activities. DOJ also initiated a project to interview about 7,600 nonimmigrant aliens[3]—about 4,800 in the first phase of interviews and about 2,800 in the second phase—whose characteristics were similar to those of the September 11 hijackers to try to determine, among other things, what knowledge they had of terrorists and planned terrorist activities.

[1]P.L. 107-56 (2001).

[2]Homeland Security Act of 2002, P.L. 107-296 (2002).

[3]Nonimmigrants are foreign nationals, such as students, tourists, and certain types of workers, who enter the United States on temporary visas.

Scope and Methodology

In response to your request for information on the interview project,[4] this report addresses the following objectives:

- the specific criteria DOJ used in compiling the list of nonimmigrant aliens to be questioned;
- whether law enforcement officers who conducted interviews complied with DOJ guidance on procedures for questioning aliens, including instructions, if any, on ensuring that the questioning was voluntary;
- the status of the interview project; and
- what information resulted from the interview project.

To determine the specific criteria DOJ used in compiling the list of nonimmigrant aliens to be questioned, we reviewed available documentation and interviewed officials from DOJ, including the Director of the Executive Office for U.S. Attorneys (EOUSA), and the Director of the Foreign Terrorist Tracking Task Force (FTTTF).

To determine whether law enforcement complied with the guidance, we reviewed the guidance that DOJ provided to the interviewing agencies on procedures for conducting the questioning. Specifically, we reviewed the Attorney General's directive on the project and the Deputy Attorney General's November 9, 2001, memorandum providing guidance, and the list of interview questions that EOUSA provided to the U.S. Attorney district offices. In addition, we interviewed officials from EOUSA, including the Director of EOUSA, as well as law enforcement officials, immigration rights advocates, and attorneys for interviewed aliens. Specifically, we interviewed 10 U.S. Attorneys and/or Assistant U.S. Attorneys; 47 federal, state, and local law enforcement officials who conducted the interviews; 8 attorneys who represented aliens that had been interviewed; and 22 immigration rights advocates. We conducted these interviews during visits to the following six U.S. Attorney districts:[5]

- Eastern Michigan (Detroit, Michigan);
- Northern Texas (Dallas, Texas);
- Central California (Los Angeles, California);
- Southern New York (New York City, New York);

[4]You have also raised issues regarding other antiterrorism measures implemented after September 11. We will be issuing reports to address your request for information on them.

[5]In addition to the U.S. Attorney districts visited where we met with 22 immigration rights advocates interviewed, we also went to Houston, Texas, and met with 8 immigration rights advocates.

- Eastern New York (Long Island, New York); and
- New Jersey (Newark, New Jersey).

To determine the status of the interview project and what information resulted from it, we interviewed DOJ officials, including the Director of EOUSA and the General Counsel of the Federal Bureau of Investigation (FBI), reviewed a February 2002 status report on the project's results, and reviewed statistics on project status that DOJ had compiled as of March 14, 2003. We also interviewed federal law enforcement officials from the FBI, the Immigration and Naturalization Service (INS), Internal Revenue Service, and U.S. Postal Service. In addition, we met with state and local law enforcement officials from the Michigan State Police; West Bloomfield Township, Michigan Police; Farmington Hills, Michigan Police; and the Suffolk County, New York Police. We did not interview state and local law enforcement officials in the other four U.S. Attorney districts because they did not have an active involvement in the project. In addition, we interviewed attorneys for interviewed aliens, and immigration rights advocates in the six U.S. Attorney districts we visited.

We visited the Eastern Michigan and Northern Texas districts because over 20 percent of the interviews in the first phase of the project were conducted in these two districts. We visited the Central California and the New York area districts for geographic dispersion. In total, the six U.S. Attorney district offices we visited accounted for slightly over 27 percent of the interviews during the project's first phase. The information that we collected from the six districts pertains only to those districts and cannot be generalized to all of the districts involved in the interview project. We did not attend any interviews or talk with any alien who was questioned as part of the interview project. According to the attorneys and immigration rights advocates with whom we spoke, these individuals did not feel comfortable meeting with us because we are government officials. We obtained data on the status of the interview project from EOUSA, although limitations in EOUSA's data, which we note in the report, precluded us from providing a firm and complete accounting of the project's status.

We conducted our review from April 2002 to March 2003 in accordance with generally accepted government auditing standards.

Background

Pursuant to the terrorist attacks of September 11, 2001, the Attorney General directed EOUSA to oversee an interview project that was intended to gather information on potential terrorism and help prevent any future terrorist attacks. In a November 9, 2001, memorandum to U.S.

Attorneys, the Attorney General provided the directive for the project and the Deputy Attorney General provided guidelines for the project. EOUSA later distributed the list of questions to be asked, which were based on the Deputy Attorney General's guidelines. The subjects of the interviews were certain nonimmigrant aliens, who were to be considered potential sources of information about terrorists or terrorist activities, rather than suspects, and their participation in the interview project was to be voluntary.

Several federal law enforcement entities contributed to the development and implementation of the interview project. These included FTTTF, INS, EOUSA, U.S. Attorney offices, Anti-Terrorism Task Force (ATTF)[6] members, the FBI, and the Justice Management Division. The FTTTF developed the criteria for determining which nonimmigrant aliens should be interviewed. INS generated a list of prospective interview subjects and their addresses, and the address information was refined through a search of public databases. EOUSA implemented the project through its 94 U.S. Attorney district offices, which were to coordinate the interviews with ATTF members in each U.S. Attorney district. The Attorney General's memorandum on the project stated that ATTFs would be used for this project because "federal resources have their limits . . . and . . . there are many more people to be interviewed than there are federal agents to conduct the interviews."

The U.S. Attorneys were responsible for assigning the interviews to the various participating ATTF members, providing the written guidance issued by the Attorney General, collecting the reports of the interviews, and coordinating any follow-up investigations with FBI Special Agents-in-Charge. ATTF members were responsible for conducting the interviews in accordance with the guidance, drafting and submitting a written report of each interview, and participating in follow-up investigations, as they deemed appropriate.

Results in Brief

Demographic and visa information on the perpetrators of the September 11 attacks formed the criteria for compiling the list of nonimmigrant aliens

[6]ATTFs operate under the direction of the U.S. Attorneys and are comprised of federal, state, and local law enforcement officials. They are charged with implementing and coordinating the DOJ's antiterrorism plan, serving as a conduit for disseminating information about terrorists between federal and local agencies, and providing a standing organizational structure for a coordinated response to a terrorist incident in the district. ATTFs were established by the Attorney General shortly after September 11.

to be questioned. To identify individuals whose characteristics were similar to those of the perpetrators, FTTTF sought to identify from INS records the names and current addresses of aliens that (1) had certain types of visas and (2) fit certain characteristics relating to gender, age, date of entry into the United States, and country that issued passport. Due to concerns about the reliability of INS's address information,[7] FTTTF supplemented INS's address information with public source data. The FTTTF used similar criteria in the two phases of interviews except that the aliens' age range, the range of their dates of entry into the country, and the number of countries covered were expanded for the second phase.

The law enforcement officers who conducted the interviews adhered to DOJ's guidance, according to the law enforcement officials, attorneys for interviewees, and immigration advocates with whom we spoke. The attorneys and advocates told us that interviews were conducted in a respectful and professional manner, and interviewees were not coerced to participate. They noted, however, that the interviewed aliens did not perceive the interviews to be truly voluntary because they worried about repercussions, such as future INS denials for visa extensions or permanent residency, if they refused. Further, although there was consensus on the voluntary nature of the interviews, more than half of the law enforcement officers we spoke with expressed concerns about the quality of the questions asked and the value of the responses obtained in the interview project.

Because of data limitations, EOUSA cannot provide firm and complete information on the current status of the interview project. EOUSA's data indicated that, as of March 2003, 3,216 nonimmigrant aliens had been interviewed during the two phases of the interview project. This is about 42 percent of 7,602 names sent to U.S. Attorney offices for interviewing. However, the list contained such problems as duplicate names and data entry errors, which limited EOUSA's ability to determine exactly how many unique individuals (1) the list represented, (2) had left the country, (3) could not be located, and (4) had moved to another district. Because of these problems, it is not possible to determine how many interviews remain to be completed. Although the interview project was to end in May

[7]In our recent report, U.S. General Accounting Office, *Homeland Security: INS Cannot Locate Many Aliens Because It Lacks Reliable Address Information*, GAO-03-188 (Washington D.C.: November 21, 2002), we reported that INS alien address information could not be relied on to locate many aliens of interest to the United States, and recommended specific measures to improve INS's program for gathering the information.

2002, it was still ongoing in January 2003 and DOJ expected that it will be completed by March 1, 2003.

Information resulting from the interview project had not been analyzed as of March 2003; and the extent to which the interview project may have helped the government combat terrorism is hard to measure. According to DOJ officials, there are no specific plans to analyze the project data. DOJ has asserted that the project netted intelligence information and had a disruptive effect on terrorists. EOUSA's February 2002 status report to the Attorney General stated that the interview project resulted in useful leads, but it did not provide specific examples, citing the sensitivity of the leads. The report also stated that "fewer than" 20 interviewees were arrested, mostly due to immigration violations. The second phase of interviews, which was to have been completed in May 2002, was still ongoing in January 2003. Law enforcement representatives with whom we spoke expressed differing views on how the interview project affected community relations. Some said that the interview project was helpful in building ties to the community while others stated that it had a negative effect on relations between the Arab community and law enforcement personnel.

DOJ has not conducted an assessment of the interview project and as of January 2003, had no specific plans to do so, although EOUSA officials told us they thought such an assessment would be valuable. We recognize that DOJ acted quickly after the September 11 attacks to try to develop leads that could help deter another attack. National security, as opposed to interview project methodology and oversight, was rightfully paramount in importance. Because there are indications that the government's antiterrorism efforts will continue to rely, in part, on conducting interview projects with aliens who reside in this country, this report contains a recommendation to the Attorney General to initiate a review of the interview project that would address lessons learned. In commenting on a draft of this report, DOJ was silent on our findings, conclusions, and recommendation. DOJ provided technical comments, which we evaluated and incorporated, as appropriate. DOJ also expressed two concerns—one relating to the objective of the interview project and the other relating to our presentation of data—which we respond to in the Agency Comments and Evaluation section of the report.

Demographic and Visa Information Used in Compiling the List of Nonimmigrant Aliens to Be Questioned

Selected characteristics of the perpetrators of the September 11 attacks formed the criteria for compiling the list of nonimmigrant aliens to be questioned. To identify individuals whose characteristics were similar to those of the perpetrators, FTTTF obtained a dataset of 336,330 records on nonimmigrant aliens who had entered the United States or were issued a visa between January 1, 1999, and September 5, 2001. Because travelers could have entered, departed, and reentered the country several times, the dataset could have contained multiple records for a single alien. Of the 336,300 names that FTTTF received for the first phase of the interview project, it selected 5,146 names with public source addresses who

- entered the United States after January 1, 2000;
- claimed citizenship from any of 15 countries in which intelligence indicated that there was an al Qaeda terrorist presence or activity; and
- were males born between January 1968 and December 1983;

According to DOJ's February 2002 status report, FTTTF's rationale in selecting these characteristics was that their demographic similarity to the terrorists would make them more likely to reside in the same communities or be members of the same social groups and, therefore, more likely to be aware of suspicious activity.

INS obtained the name and address information from its Nonimmigrant Information System, an automated database that contains address and identity information on nonimmigrant aliens who were inspected upon their entry into the United States. Because FTTTF considered INS's address information to be of questionable reliability, it consulted public source databases and supplemented INS's information to attempt to provide the most current address information for these aliens to the U.S. Attorneys.[8] The individuals selected for interview were identified as having a U.S. street address listed in commercially available public source records.

In March 2002, the Attorney General stated that the interview project produced valuable sources of information and started a second phase of interviews. Using criteria similar to those in the first phase of the project, FTTTF compiled a list of 3,189 names of nonimmigrant aliens for the second phase. The change in criteria included broadening the age range,

[8]GAO-03-188.

date of entry, and number of countries of citizenship of the nonimmigrant aliens to those who

- were males born between January 1955 and December 1984;
- entered the United States between January 1 and February 27, 2002; and
- claimed citizenship from any of 26 countries in which intelligence indicated that there was an al Qaeda terrorist presence or activity.

FTTTF sent 8,335 nonimmigrant alien names to districts for interviewing during the two phases of the interview project. After eliminating some, but not all of the duplicate names, the districts had 7,602 names on their interview lists as of March 14, 2003.

Interviewers Complied with DOJ Guidance; Project Implemented Differently by Districts

The interview guidelines, including the questions that law enforcement officers were to ask the nonimmigrant aliens, were distributed to 94 U.S. Attorney districts.[9] The guidelines stated the interviews were to be voluntary, and both law enforcement officers and nonimmigrant aliens' representatives with whom we spoke confirmed that the interviewers followed the guidelines for obtaining voluntary participation. There was some variation among districts about how the interview project was implemented.

Interviewers Complied with DOJ's Guidelines for Obtaining Voluntary Participation

In all the districts we visited, officials from the U.S. Attorney offices told us they stressed that the questioning would be voluntary, and they distributed the guidance to the federal, state, and local law enforcement officials who would be conducting the interviews. The law enforcement officials we met with also stated that they followed the guidelines for obtaining voluntary participation.

In the three districts we visited where we were told that immigration rights advocates and attorneys sat in on interviews, we were told that interviews were conducted in a respectful and professional manner, and that the interviewees were not coerced to participate. However, they also reported that aliens told them that they did not feel the interviews were truly

[9]EOUSA distributed the guidance to all 94 U.S. Attorney districts even though not every district was given a list of nonimmigrant aliens to interview. EOUSA wanted all districts to be aware of the project and its guidelines in case they were asked to conduct interviews at a later point in time.

voluntary. This was because the aliens feared there could be repercussions to them for declining to participate. For example, interviewees were reportedly afraid that future requests for visa extensions or permanent residency would be denied if they did not agree to be interviewed. Some aliens also reported to their attorneys and advocates that they felt they were being singled out because of their ethnicity or religious beliefs.

DOJ Provided Guidance Package and Questionnaire to Interviewing Agencies

The Deputy Attorney General provided EOUSA with guidance that consisted of a two-page Attorney General's directive on the interview project and an eight-page memorandum describing the topics that the interview was to cover and interviewing tips. EOUSA distributed these guidelines, as well as a list of interview questions based on the topics listed in the guidance, to its 94 district offices. EOUSA held a telephone conference with all U.S. Attorney district offices on November 9, 2001, to review the guidelines and reinforce the fact that the interviews were to be voluntary. The guidelines stated the following:

- The objective of the project was information gathering.
- The persons to be interviewed were not suspected of involvement in criminal activity; therefore, the interviews would be consensual, and every interview subject was free to decline answering questions.
- While the primary purpose of the interviews was not to ascertain the legality of the individuals' immigration status, the federal responsibility to enforce the immigration laws was an important one.
- The persons to be interviewed would not be asked about their religious beliefs or practices.
- Investigators should feel free to ask about any topic that would elicit information that could reasonably assist in the effort to learn about those who support, commit, or associate with persons who commit terrorism.

The interview topics included personal information about the alien, such as birthplace and country of citizenship; address and phone numbers, including those of family members and close associates; employment and sources of income; and education, including professional licenses or scientific expertise. Other topics covered the alien's foreign travel, involvement in armed conflicts, reaction to terrorism, knowledge of terrorism or the financing of terrorism, and knowledge of any criminal activity. (See app. I for the complete list of interview questions.) Of the 33 questions on the interview form, 21 were in a "yes/no" format. The following are examples of questions asked:

- "Has the person ever visited Afghanistan? Yes or no. If yes, when and for what reason?"
- "Does the person know anyone capable [of] or willing to carry out acts of terrorism? Yes or No. If yes, please explain."
- "Does the person have any knowledge of involvement in advocating, planning, supporting, or committing terrorist activities? Yes or No. If yes, please explain." and
- "Is the person aware of any persons or groups in his homeland who might be planning or advocating terrorist acts against the U.S.? Yes or No. If yes, please explain."

More than half of the law enforcement officers we interviewed raised concerns about the quality of the questions or the value of the responses. For example, they noted that the questions were redundant, did not produce complete answers, had limited value, and elicited responses that aliens thought would help them avoid attracting further attention from law enforcement.

Project Implementation Varied by District

During our visits to U.S. Attorney districts, we learned of several differences in how the districts implemented the interview project. For example, there were differences among districts in training for the interviews, procedures for contacting interviewees, and agencies involved in conducting the interviews. In all of the districts we visited, law enforcement officials told us they received no formal complaints regarding the project.

Some Districts Held Mandatory Training Sessions, While Others Did Not

In all six districts we visited, we were told that the interview guidelines were provided to the interviewers and that the voluntary nature of the interviews was stressed. Three districts (Eastern District of Michigan, Northern District of Texas, and New Jersey) held mandatory training sessions on how law enforcement officers were to conduct the interviews, and three districts did not. Each district that offered mandatory training required attendance by all personnel who were to conduct the interviews. These districts also offered additional training. For example, one of these districts conducted a session on how to identify fraudulent immigration documents, and the other two districts conducted sessions on Middle Eastern cultural awareness. At one district where mandatory training was held, law enforcement officials told us that the U.S. Attorney in that district instructed them not to deviate from the questions on the interview instrument. In this district, the interview data may be more limited because from a methodological standpoint, open-ended questions in which respondents are asked to express and explain their perceptions and

experiences are more likely to elicit information of a substantive nature. The three districts that did not have mandatory training sessions still provided training to some, but not all, interviewers. For example, officials from the U.S. Attorneys office in the Central District of California stated that supervisors received training.

Different Methods Were Used to Contact Interviewees

The districts we visited used different methods for notifying aliens about the interview project. In five of the districts we visited, the district let the law enforcement agent conducting the interview decide whether to contact the person by phone or by visiting their residence without prior notification. In general, agents told us that they used the contact method they thought would have the most success in producing an interview.

Two of the 94 districts—the Northern District of Illinois and the Eastern District of Michigan—sent letters to aliens notifying them of the interview project. Officials in the U.S. Attorneys office in the Eastern District of Michigan told us they sent a letter that described the project and provided time for the aliens to find counsel, if desired, and prepare for the interview. The letter explained the purpose of the project and stated that participation in the project was voluntary. After receiving the letter, aliens could either call to schedule the interview time and place or decline to be interviewed. We were told that agents would only conduct unannounced visits to aliens' residences if they did not respond to the letter. Almost all of the attorneys and immigration rights advocates we interviewed in the Eastern District of Michigan thought this approach was optimal for the project. The main criticism expressed about the Eastern District of Michigan's letter was that there was no mention in the letter that a person could bring an attorney to the interview. (See app. II for a copy of the letter.)

Federal and Local Law Enforcement Involvement Varied in the Project

The involvement of INS, FBI, and local law enforcement agencies in the interview project varied across districts. Table 1 shows which agencies were and were not involved in conducting interviews in the six districts we visited.

Table 1: Branches of Law Enforcement Participating in Project, by District

District	Agencies involved	Agencies generally not involved	Reason cited for generally not involving agency
Eastern Michigan	• FBI • Bureau of Alcohol, Tobacco, Firearms, and Explosives • Drug Enforcement Administration • Internal Revenue Service • U.S. Postal Service • U.S. Secret Service • State and local law enforcement	• INS	Afraid INS would intimidate people who agreed to be interviewed.
Northern Texas	• FBI[a] • INS	• Local law enforcement	Notified when in its jurisdiction, but it did not participate often.
Central California	• FBI[a]	• INS • Local law enforcement	Afraid INS would intimidate people who agreed to be interviewed. Notified when in its jurisdiction, but it did not participate often.
Southern New York	• INS • Local law enforcement	• FBI	FBI's local resources stretched too thin due to the September 11 investigation.
Eastern New York	• Local law enforcement • U.S. Attorney Criminal Investigators	• INS • FBI[b]	INS was understaffed. FBI's local resources stretched too thin due to the September 11 investigation.
New Jersey	• FBI[a] • Local law enforcement	• INS	Afraid INS would intimidate people who agreed to be interviewed.

Source: GAO analyses based on site visits.

[a]Lead interviewing agency.

[b]Not involved in first phase of interviews, but involved in second phase.

As shown in table 1, the FBI served as the lead interviewing agency in three districts, and as a participating agency in one district. Four districts opted not to have INS agents conduct any interviews because they felt it would intimidate the interviewees or was understaffed. Local law enforcement was generally involved in conducting interviews in four districts, and minimally involved in two districts. According to DOJ's February 2002 status report, local police departments in a handful of jurisdictions refused to conduct interviews, citing concerns about racial profiling and local laws or regulations that restricted their participation in the enforcement of federal immigration laws.

Complete Information Lacking on Status

It is not possible to provide complete information on the current status of the interview project because of limitations in EOUSA's data.

On February 26, 2002, DOJ reported some aggregate information on the first phase of interviews. Out of 4,793 potential interviews, DOJ reported that

- 4,112 individuals were in the country, and 681 had left the country;
- 2,261 interviews were conducted;
- 1,097 individuals—about 27 percent of the 4,112 individuals who remained in the country—were not located;
- 785 individuals had relocated to another district; and
- small percentage of individuals declined to be interviewed.[10]

DOJ reported that fewer than 20 people were arrested,[11] mostly on immigration violations charges. Most of these arrests occurred when people who had agreed to be interviewed were found to have immigration violations. Three individuals were arrested on criminal charges—none of them appeared to have any connection to terrorism.

Since February 2002, EOUSA did not collect data on the status of the first phase of interviews. Therefore, of the 4,112 individuals who were determined to be in the country, we do not know how many were interviewed in addition to the 2,261 who had already been interviewed as of February 2002. For example, EOUSA did not have follow-up data on the status of the interviews of the 785 individuals who relocated to another district. In these instances, the ATTF in the district to which the individual had moved was tasked with completing the interview. EOUSA also did not have data on the total number of aliens who declined to be interviewed, although it reported that 8 out of 313 individuals in the Eastern District of Michigan, 1 out of 69 individuals in Oregon, and 1 out of 59 individuals in Minnesota refused to be interviewed.

EOUSA's data indicated that, as of March 2003, 3,216 nonimmigrant aliens had been interviewed during the two phases of the interview project. This is about 42 percent of 7,602 names sent to U.S. Attorney offices for interviewing. However, according to EOUSA officials, the following data problems make it difficult to determine the status of the project:

- The names of aliens to be interviewed were not "scrubbed for duplicates" before being sent to the U.S. Attorney offices.
- Arabic names consist of four distinct parts, while American databases were traditionally designed to accommodate three-part names.

[10]Except for reporting on a few districts, DOJ did not report the number of people who declined to be interviewed.

[11]DOJ did not report the exact number of people arrested.

- Variations in the spelling of traditional Arabic names and in the Arabic vs. American format for recording birth dates may have resulted in data entry errors.

These data problems limited EOUSA's ability to determine exactly how many unique individuals (1) the list represented, (2) had left the country, (3) could not be located, and (4) had moved to another district. Because there were duplicate names on the interview list, however, we can deduce that the number of individuals who were to be interviewed was fewer than 7,602, and the interview completion rate may have been higher than 42 percent. Problems with the data also mean that EOUSA has not been able to determine how many interviews remain to be completed. (See app. III for data on the number of intended interview subjects and the number of people interviewed by district.)

As of January 2003, EOUSA's senior officials responsible for the project did not know the extent to which the interviews had been completed. Out of 94 U.S. Attorney districts, 26 districts had not conducted any interviews as part of the second phase of the project. The second phase was to begin in March 2002 and end in May 2002. EOUSA officials provided us the following information about the 26 districts that had not conducted any interviews during the second phase:

- Four districts did not receive any names for the first or second phase.
- Six districts did not receive any new names for the second phase.
- Seven districts determined that the individuals they were to interview for the second phase had left the country, transferred to another district, or could not be located.
- One district reported that all of the names provided for the second phase were duplicates from the first phase.
- EOUSA had no information on why the remaining 8 districts had not conducted any interviews during the second phase.

EOUSA officials told us that the interview project was a priority for DOJ because the directive to undertake the project came from the Attorney General. They noted, however, that they were asking law enforcement agents to interview people who were not under investigation. Therefore, at the field level, investigative needs may have shifted the priority assigned to conducting the interviews. Nonetheless, officials at EOUSA told us that the interview project was ongoing, and they expected it to be completed by March 1, 2003.

EOUSA officials told us that they have not done an assessment of the interview project to determine "lessons learned" in the event that a similar effort should be undertaken in the future. As of January 2003, EOUSA officials said they had no specific plans to conduct an assessment of their interview project. In response to our inquiries about what improvements, if any, could be made if such a project were undertaken again, they noted that information on project status could be more complete and reliable if several steps are taken when preparing for the project. For example, they said that it would be helpful to eliminate duplicate names from the interview list before disseminating the list to U.S. Attorney offices. They also said that a technical specialist should be involved in designing the project to ensure that the database can be readily updated. This would eliminate the need for EOUSA to query the districts individually to ascertain the status of the project. In addition, they noted that data consistency could be improved if districts were given guidance on how to interpret and report information (for example, what evidence would be needed to conclude that an individual had left the country). Finally, they stated that it might be useful to obtain feedback from federal, state, and local law enforcement on the interview instrument that was used in the project to ascertain what improvements could be made.

Project Results Not Analyzed and Hard to Measure

The data gathered from the interview project had not been analyzed as of March 2003, according to senior EOUSA officials. These data have been maintained by the Justice Management Division in a centralized database. According to DOJ officials, there are no specific plans to analyze the project data. Further, it is difficult to measure the value and results of investigative leads obtained from the interview project. Law enforcement representatives with whom we spoke expressed differing views on how the interview project affected community relations.

EOUSA instructed the districts to forward to them any potential leads developed from the interviews. How and to what extent the interview project—including investigative leads and the increased presence of law enforcement in communities—helped the government combat terrorism is hard to measure. DOJ has asserted that the project netted intelligence information and had a disruptive effect on terrorists. DOJ also stated that the interview project strengthened relationships between law enforcement and Arab communities. Some law enforcement officials and representatives for aliens held the opposite view.

In its February 26, 2002, report to the Attorney General, DOJ officials stated that the project was helpful in disrupting potential terrorist

activities. According to DOJ's report, "These contacts, combined with the widespread media attention the project received, ensured that potential terrorists sheltering themselves within our communities were aware that law enforcement was on the job in their neighborhoods."[12] The report also stated that the project led to meaningful investigative leads—for example, to persons manufacturing fraudulent documents—though it did not specify how many or where because DOJ considered the information too sensitive to divulge. None of the law enforcement officials with whom we spoke could provide examples of investigative leads that resulted from the project. However, nine of the officials offered the opinion that if the interviews provided just one lead that helped prevent a terrorist attack, the project would have been worthwhile.

Law enforcement officials differed on whether the interview project was helpful in building ties to the community. DOJ stated in its report that the project contributed to community building by forging stronger ties between the law enforcement and Arab communities. Law enforcement officials who conducted interviews in 4 of the 6 districts visited expressed similar views to us. They said that the project gave them an opportunity to present a friendly law enforcement presence, obtain information (including on potential hate crimes directed against the interviewees), and leave a business card so the interviewee could contact them at a later time, if necessary. They also noted that the interviewed aliens were generally cooperative and appeared willing to help. Nine of the 47 law enforcement officials with whom we spoke reported that aliens offered to work as linguists to help them with their investigation. In contrast, federal law enforcement officials at the Central California and Eastern New York districts we visited expressed the view that the interview project had a negative effect on relations between the Arab community and law enforcement personnel.

In the 3 districts we visited where we were told that immigration rights advocates and attorneys sat in on interviews, they expressed the view that the project had a chilling effect on relations between the Arab community and law enforcement, even though the interviewers were professional and unthreatening. Attorneys and advocates told us that interviewed aliens told them they felt they were being singled out and investigated because of their ethnicity or religious beliefs. Moreover, as noted earlier, aliens reportedly feared repercussions from INS if they did not agree to the

[12]*Final Report of Interview Project*, DOJ, EOUSA (February 26, 2002).

interview. According to the attorneys, this may have been the reason many of the interviewees offered their linguistic services in support of the government's efforts to combat terrorism.

Conclusions

The terrorist attacks of September 11, 2001, quickly set in motion a number of government measures intended to combat terrorism. One of these was a project designed to gather information on terrorists and terrorist activities from selected nonimmigrant aliens who were to voluntarily agree to participate in interviews with law enforcement agents. Our review found that the project's intent of obtaining aliens' voluntary compliance with the interview project was met. However, the results of the project—in terms of how many, what types, and the value of investigative leads obtained from the interviews—are unknown because DOJ considers the information too sensitive to divulge. Views about the impact of the project on community relations were mixed, with some law enforcement officials indicating that the project helped build ties between law enforcement and the Arab community, while others indicated that the project had a negative effect on such relations. Further, 9 months after the interview project was scheduled to end, it was still ongoing. DOJ did not know what the status of the project was, and it had no specific plans for conducting a comprehensive assessment of lessons learned from the project. This makes oversight of the project difficult, and it does not capitalize on experience so that future interview projects could be implemented more efficiently and effectively.

We recognize that in initiating the interview project after the September 11 attacks, DOJ acted quickly in an effort to develop leads that could help deter another attack. National security, as opposed to interview project methodology and oversight, was rightfully paramount in importance. It is also the case that national security concerns may impel the government to conduct additional interview projects (for example, interviews with Iraqi nationals residing in the United States) such as the one discussed in this report. We believe that lessons that can assist similar future efforts can be gleaned from DOJ's experience conducting the two-phased interview project discussed in this report. In undertaking the interview project, DOJ encountered a host of issues that may provide useful input to implementing an interview project in the future. For example, EOUSA officials told us that the status of the interview project could have been tracked more smoothly if there had been more up-front planning in certain areas, such as eliminating duplicate names from lists and setting up a mechanism for tracking case status. However, DOJ has not conducted a systematic, comprehensive assessment of the interview project to obtain

feedback on what worked well and what could have been improved in implementing it. In discussions with EOUSA officials, they agreed that such an assessment would be valuable.

Recommendation for Executive Action

Because there are indications that the government's antiterrorism efforts will continue to rely, in part, on conducting interview projects with aliens who reside in this country, we believe that the interview project affords an opportunity to build a knowledge base that could assist future efforts to collect interview data and monitor project status. Accordingly, we recommend that the Attorney General, upon completion of the interview project, initiate a formal review of the project and report on the lessons learned. The issues that such a review might address include methods for identifying and locating aliens, constructing effective interview questions, designing a database for maintaining the data collected, issuing guidance on interview methods and inputting data into the database, conducting the interviews, obtaining state and local support for the project, overseeing project status, and analyzing the data. The review should include input from participating law enforcement officials on what aspects of the project were effective and how the objectives of the project might have been better or more efficiently met.

Agency Comments and Our Evaluation

Our draft report was reviewed by representatives of the Office of the Deputy Attorney General, Executive Office for United States Attorneys, Federal Bureau of Investigation, and Immigration and Naturalization Service, now part of the Department of Homeland Security. DOJ provided us with written comments that were primarily technical in nature, and we incorporated them into the report as appropriate. DOJ was silent on our findings, conclusions, and recommendation.

DOJ made two substantive points concerning our draft report. In its first point, DOJ took issue with our focus on data limitations and EOUSA's resulting inability to have firm and complete information on the status of the interview project. DOJ stated that the project's primary purpose was not to measure the number of persons interviewed, but to deter and disrupt potential terrorist activities, gather intelligence, and facilitate community outreach. DOJ noted that none of these purposes can be measured meaningfully by raw data on the number of persons interviewed. We agree with DOJ and made this point ourselves in the report. We state in the Results in Brief and Conclusions sections that interview project methodology and oversight are not of paramount concern when national security is at stake. Nevertheless, we believe that timely, quality data (for

example, eliminating duplicate names from interview lists, maintaining current data on how many interviews were completed, and clearly tracking how many interviews could not be completed and why) serve an important function in terms of efficient project management and effective project oversight. Capitalizing on the lessons learned from how this interview project was designed and implemented can help future similar projects avoid potential pitfalls. That the government may have continuing interest in conducting interview projects with foreign nationals is evidenced by the FBI's current effort to conduct voluntary interviews with Iraqis to gather intelligence information to help with the war effort.

In its second point, DOJ took issue with how we present EOUSA data in two instances in the report. In one instance, DOJ stated that our graphical presentation of data on the Highlights page of the report does not provide an accurate picture of the project's accomplishments because it implies that interviews could have been completed with more effort. DOJ noted specifically that the chart does not account for a large number of aliens who had left the country and, therefore, could not have been interviewed. We did not present data on the number of potential interviewees who had left the country because our interviews with EOUSA officials had indicated the data were not reliable. For example, there may have been duplicate entries on the list of individuals who were thought to have left the country, or an individual may have been classified both as "unable to locate" and "left the United States." Because of limitations in the data, it was not possible to determine how many distinct individuals the number reported as having left the country represented. The chart on the Highlights page is intended as a summary of the most reliable information available on project status. In presenting the information, we attach no value judgment regarding DOJ's performance.

In the second instance, DOJ stated that the table in appendix III does not provide a complete and accurate representation of the project because we present less than half of the data provided by EOUSA. In appendix III, we present information, by judicial district, on the number of names sent to the district for interview, and the number of interviews conducted. We limit the information to these three variables because our discussions with EOUSA officials suggested that the data are reliable. We do not present other numbers provided by EOUSA—specifically, on people referred to another district, transferred out of a district, left the United States, and unable to locate—because our discussions with EOUSA officials indicated that the data are not reliable for a variety of reasons. For example, in addition to the types of problems cited above, some districts may have double counted individuals who were referred into their district and then

transferred out of the district. We added a footnote to the table in appendix III that makes explicit what additional information EOUSA provided us, and why we decided not to present it.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this report. We will then send copies of the report to the Chairman and Ranking Minority Member of the Senate Committee on the Judiciary; the Chairman of the House Committee on the Judiciary; the Chairman and Ranking Minority Member of the Subcommittee on Immigration, Senate Committee on the Judiciary; the Chairman and Ranking Minority Member of the Subcommittee on Immigration, Border Security, and Claims, House Committee on the Judiciary; the Attorney General; the Director of the FBI; the Director of the Foreign Terrorist Tracking Task Force; the Director of the Office of Management and Budget; the Secretary of the Department of Homeland Security, the Under Secretary for Border and Transportation Security, the Director of the Bureau of Immigration and Customs Enforcement, and the Director of the Bureau of Customs and Border Protection, Department of Homeland Security; and other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staffs have any questions about this report, please contact Evi Rezmovic or me at (202) 512-8777. Key contributors to this report are listed in appendix IV.



Richard M. Stana
Director, Homeland Security
and Justice

Appendix I: List of Questions Used in Interviews

ATTF - Suggested Topics for Interviews

The list of suggested questions below corresponds with the list of suggested topics included within the Guidelines for the Interviews Regarding International Terrorism, issued by the Deputy Attorney General on November 9, 2001, as well as the format of the Computerized Reporting System for this project. This document is provided to assist investigators in organizing the information they obtain and turn in to the ATTF Coordinator. Please feel free to distribute this document to the investigators, so that they can have it with them when they conduct interviews.

The list of suggested topics is intended as a guideline for the questioning. It should not be viewed as a mandatory checklist in which each suggested question has to be asked in order. You may wish to discuss with the investigators different interviewing strategies that best fit the circumstances of each interview. Depending on the tone of the interview, the investigators should be encouraged to adopt varying strategies to obtain the information that we are seeking. Investigators should feel free to ask about any topic that would elicit information that could reasonably assist in the effort to learn about those who support, commit or associate with persons who commit terrorism.

1. Name and date of birth of the person interviewed.

2. Did you locate the person on the list? Yes or No

3. Did you interview the person? Yes or No

4. Country of Origin?

 Citizenship?

 Residence?

 Visa Type?

5. What forms of identification were provided?

 State driver's permit
 Student ID
 Visa
 Foreign ID

6. Does the person still have possession of a passport? Yes or No

 If yes, what country?

 If no, any explanation provided?

7. Any aliases or different spellings of person's name.

8. Current residence and previous addresses.

 Home Phone:

 Work Phone:

 Cell Phone:

 Other Phone Numbers:

9. Employment or other sources of income?

 Location of employment?

10. Highest Education Level.

11. Interview Date.
 Interview Location.

12. Name of the investigators conducting the interview and name of all persons present for the interview. Please include the investigator's affiliation and any contact information for the investigator, including phone and pager numbers, and email address.

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13. Has the person ever visited Afghanistan? Yes or No
If yes, when and for what reason?

14. Has the person ever participated in any armed conflict? Yes or No
If yes, provide further information.

15. Reason for person's visit to United States

a. Name of any school attending, studies, other activities, and future plans of person.

b. If the person is a tourist, which cities has the person visited. What cities and landmarks does the person plan to visit?

c. Purpose and destination of any trips the person has made outside of the U.S.

16. Have threats or violence been directed at the person? Yes or No
If yes, please explain.

17. Does the person have knowledge regarding the events of September 11, 2001?
Yes or No
If yes, please explain.

18. Is the person aware of anyone who reacted in a surprising way to the September 11 attacks? Yes or No
Please explain

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19. Does the person have any knowledge of involvement in advocating, planning, supporting or committing terrorist activities? Yes or No
If yes, please explain

20. Knowledge of terrorism:
a. Does the person know anyone capable or willing to carry out acts of terrorism? Yes or No
If yes, please explain

b. Is the person aware of any plans or discussion about the commission of terrorist acts in the future? Yes or No
If yes, please explain

c. Does the person have any ideas as to how future terrorism can be prevented?
Please explain

d. Did the person recognize the names of any suspects or targets in the September 11 attacks?
Yes or No
If yes, please explain

21. Financing of terrorism
a. Is the person aware of anyone raising money for terrorist activity? Yes or No
If yes, please explain

b. Has the person or anyone else contributed to an entity which the person knows or suspects to be a front for funding terrorism? Yes or No
If yes, please explain

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c. Is the person aware of anyone engaged in systematic activity to raise money, like drug trafficking or fraud schemes? Yes or No
If yes, please explain

22. Training for Terrorist Activities
a. Is the person aware of anyone receiving training at terrorist camps? Yes or No
If yes, please explain

b. Is the person aware of anyone receiving flight lessons? Yes or No
If yes, please explain

c. Is the person aware of anyone receiving terrorist training? Yes or No
If yes, please explain

23. Is the person aware of anyone who has sympathy for the September 11 hijackers or other terrorists? Yes or No
If yes, please explain

24. Advocates of violence:
a. Has the person heard of anyone recruiting individuals to engage in violent acts against the U.S. or its citizens? Yes or No
If yes, please explain

b. Does the person know anyone who is preaching violent "jihad" or urging others to overthrow or attack the U.S.? Yes or No
If yes, please explain

25. Knowledge of Weapons
a. Does the person have access to guns, explosives or harmful chemical compounds? Yes or No
If yes, please explain

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b. Does the person know of anyone who possesses or has tried to purchase guns, explosives or harmful chemical compounds? Yes or No
If Yes, please explain

c. Does the person know anyone who is capable of developing biological or chemical weapons such as anthrax? Yes or No
If Yes, please explain

26. Is the person aware of anyone who possesses or is involved in selling or supplying others with false identification documents (driver's permits, visas, social security cards and credit cards)? Yes or No
If Yes, please explain

27. Knowledge of Terrorists Overseas

a. Is the person aware of any persons or groups in his homeland who might be planning or advocating terrorist acts against the U.S.? Yes or No
If Yes, please explain

b. Does the person know anyone who could help the U.S. in its fight against terrorism? Yes or No
If Yes, please explain

28. Is the person aware of any suspicious activity in his neighborhood, community, or circle of acquaintances that might suggest the undertaking or support of terrorist activities? Yes or No
If Yes, please explain

29. Is the person aware of any other individuals who might have information about the above topics? Yes or No
If Yes, please explain

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30. Is the person aware of any criminal activity whatsoever, regardless of whether it is related to terrorism? Yes or No
If Yes, please explain

31. Summary of significant leads and information learned from the interview

32. Additional information obtained in the interview

33. Do you recommend any follow-up investigation? Yes or No
If Yes, please describe any recommended follow-up investigation

By: _____

Dated: _____, 2001

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Appendix II: Notification Letter Sent in the Eastern District of Michigan



U.S. Department of Justice

United States Attorney
Eastern District of Michigan

211 W. Fort Street
Suite 2000
Detroit, Michigan 48226

AUSA Robert Cares
Telephone: (313)226-9736
Facsimile: (313)226-2372

November 26, 2001

Dear Mr.

As you know, law enforcement officers and federal agents have been acquiring information that may be helpful in determining the persons responsible for the September 11th attacks on the World Trade Center and the Pentagon. Furthermore, they are pursuing all leads that may assist in preventing any further attacks. I am asking that you assist us in this important investigation.

Your name was brought to our attention because, among other things, you came to Michigan on a visa from a country where there are groups that support, advocate, or finance international terrorism. **We have no reason to believe that you are, in any way, associated with terrorist activities.** Nevertheless, you may know something that could be helpful in our efforts. In fact, it is quite possible that you have information that may seem irrelevant to you but which may help us piece together this puzzle.

Please contact my office to set up an interview at a location, date, and time that is convenient for you. During this interview, you will be asked questions that could reasonably assist in the efforts to learn about those who support, commit, or associate with persons who commit terrorism.

While this interview is voluntary, it is crucial that the investigation be broad based and thorough, and the interview is important to achieve that goal. We need to hear from you as soon as possible - **by December 4.** Please call my office at (313) 226-9665 between 9:00 a.m. and 5:00 p.m. any day, including Saturday and Sunday. We will work with you to accommodate your schedule.

Yours truly,

JEFFREY COLLINS
United States Attorney

ROBERT P. CARES
Assistant United States Attorney

Appendix III: March 2003 Data on the Interview Project, by District, First and Second Phases of Interviews Combined

Judicial district	Number of names assigned to districts	Number of interviews conducted
Alabama-Middle	1	1
Alabama-Northern	25	14
Alabama-Southern	7	4
Alaska	8	1
Arizona	109	54
Arkansas-Eastern	27	14
Arkansas-Western	18	12
California-Central	259	110
California-Eastern	39	18
California-Northern	126	63
California-Southern	42	16
Colorado	178	82
Connecticut	103	70
Delaware	15	9
District of Columbia	66	21
Florida-Middle	423	128
Florida-Northern	55	26
Florida-Southern	248	109
Georgia-Middle	4	2
Georgia-Northern	202	42
Georgia-Southern	6	3
Guam/Northern Mariana[b]	6	4
Hawaii	18	4
Idaho	4	0
Illinois-Central	55	29
Illinois-Northern	482	99
Illinois-Southern	10	6
Indiana-Northern	53	37
Indiana-Southern	39	19
Iowa-Northern	18	8
Iowa-Southern	141	69
Kansas	69	52
Kentucky-Eastern	25	14
Kentucky-Western	19	14
Louisiana-Eastern	60	26
Louisiana-Middle	24	12
Louisiana-Western	28	9
Maine	8	3
Maryland	157	53
Massachusetts	117	77
Michigan-Eastern	555	330
Michigan-Western	106	60

Judicial district	Number of names assigned to districts	Number of interviews conducted
Minnesota	188	77
Mississippi-Northern	6	3
Mississippi-Southern	7	5
Missouri-Eastern	53	32
Missouri-Western	66	44
Montana	5	4
Nebraska	16	11
Nevada	17	6
New Hampshire	15	8
New Jersey	220	106
New Mexico	28	20
New York-Eastern	246	65
New York-Northern	39	21
New York-Southern	134	49
New York-Western	46	7
North Carolina-Eastern	12	6
North Carolina-Middle	12	3
North Carolina-Western	25	11
North Dakota	6	4
Ohio-Northern	32	28
Ohio-Southern	51	20
Oklahoma-Eastern	0	0
Oklahoma-Northern	57	49
Oklahoma-Western	41	16
Oregon	209	83
Pennsylvania-Eastern	65	18
Pennsylvania-Middle	13	10
Pennsylvania-Western	35	21
Puerto Rico	0	0
Rhode Island	5	4
South Carolina	50	22
South Dakota	1	0
Tennessee-Eastern	15	5
Tennessee-Middle	17	6
Tennessee-Western	16	6
Texas-Eastern	89	45
Texas-Northern	364	196
Texas-Southern	660	148
Texas-Western	265	111
Utah	6	4
Vermont	5	2
Virgin Islands	0	0
Virginia-Eastern	212	83

Judicial district	Number of names assigned to districts	Number of interviews conducted
Virginia-Western	6	8
Washington-Eastern	21	14
Washington-Western	97	30
West Virginia-Northern	16	11
West Virginia-Southern	10	9
Wisconsin-Eastern	59	24
Wisconsin-Western	89	37
Wyoming	0	0
Total	**7,602**[a]	**3,216**

Source: Executive Office for U.S. Attorneys.

Note: EOUSA also provided us the following data: number of people referred to a district, number of people transferred out of a district, number of people who left the United States, and number of people law enforcement was unable to locate. We are not presenting these data because EOUSA officials told us that the data were unreliable for a variety of reasons. One reason cited was lack of criteria for the categories. For example, if there was testimonial evidence that a person left the country, one district might classify that as "unable to locate" while another district might classify that as "left the United States." Additionally, some districts might have double-counted people in certain categories, such as people who might have transferred in and out of a district. Finally, except for number of interviews conducted, the other categories may have contained duplicate entries.

[a]FTTTF sent 8,335 nonimmigrant alien names to districts for interviewing during the two phases of the interview project. After eliminating some of the duplicate names, the districts' lists of names totaled 7,602 as of March 14, 2003. There remains a degree of inaccuracy even in this number because, among other things, it contains duplicate names that were not always detected, as well as data entry errors.

[b]Guam/Northern Mariana consists of two districts that are under one U.S. Attorney.

Appendix IV: GAO Contacts and Acknowledgments

GAO Contacts

Richard M. Stana (202) 512-8777
Evi L. Rezmovic (202) 512-8777

Acknowledgments

In addition to the above, Cheryl Dorfman, Sam Van Wagner, Mark Macauley, Keith Wandtke, David Alexander, Ann Finley, Jan Montgomery, and Amy Rosewarne made key contributions to this report.

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PRINTED ON RECYCLED PAPER

July 2003

NO CHILD LEFT BEHIND ACT: More Information Would Help States Determine Which Teachers Are Highly Qualified

United States General Accounting Office

GAO

Report to Congressional Requesters

July 2003

NO CHILD LEFT BEHIND ACT

More Information Would Help States Determine Which Teachers Are Highly Qualified



GAO-03-631

July 2003

NO CHILD LEFT BEHIND ACT

More Information Would Help States Determine Which Teachers Are Highly Qualified

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-03-631, a report to Congressional Requesters

Why GAO Did This Study

In December 2001, Congress passed the No Child Left Behind Act (NCLBA). The act required that all teachers of core subjects be highly qualified by the end of the 2005-06 school year and provided funding to help states and districts meet the requirement. In general, the act requires that teachers have a bachelor's degree, meet full state certification, and demonstrate subject area knowledge for every core subject they teach. This report focuses on the (1) number of teachers who met the highly qualified criteria during the 2002-03 school year, (2) conditions that hinder states' and districts' ability to meet the requirement, and (3) activities on which states and districts were planning to spend their Title II funds. GAO surveyed 50 states and the District of Columbia and a nationally representative sample of districts about their plans to implement the requirement. GAO also visited and interviewed officials in 8 states and 16 districts to discuss their efforts to implement the law.

What GAO Recommends

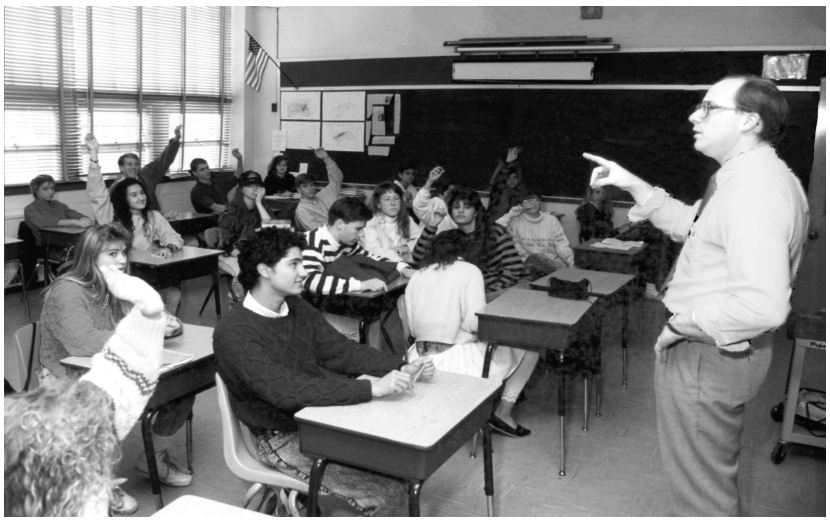
To help states determine which teachers are highly qualified and the actions they need to take to meet the requirement, GAO recommends that the Secretary of Education provide more information to states, especially on ways to evaluate the subject area knowledge of current teachers. The Department of Education provided written comments on a draft of this report and generally agreed with GAO's recommendation.

www.gao.gov/cgi-bin/getrpt?GAO-03-631.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Marnie S. Shaul, 512-7215, shaulm@gao.gov.

What GAO Found

GAO could not develop reliable data on the number of highly qualified teachers because states did not have the information needed to determine whether all teachers met the criteria. Officials from 8 states visited said they did not have the information they needed to develop methods to evaluate current teachers' subject area knowledge and the criteria for some teachers were not issued until December 2002. Officials from 7 of 8 states visited said they did not have data systems that could track teacher qualifications for each core subject they teach.



Source: U.S. Department of Education.

Both state and district officials cited many conditions in the GAO survey that hinder their ability to have all highly qualified teachers. State and district officials reported teacher pay issues, such as low salaries and lack of incentive pay, teacher shortages, and other issues as hindrances. GAO's survey estimates show that significantly more high-poverty than low-poverty districts reported hindrances, such as little support for new teachers. Rural district officials cited hindrances related to their size and isolated locations. State officials reported they needed assistance or information from Education, such as in developing incentives to teach in high-poverty schools, and Education's strategic plan addresses some of these needs.

To help meet the requirement for highly qualified teachers, state survey respondents reported they planned to spend about 65 percent of their Title II funds on professional development activities authorized under Title II, and districts planned to spend an estimated 66 percent on recruitment and retention. Both state and district officials planned to spend much larger amounts of funds from sources other than Title II funds on such activities. High-poverty districts planned to spend more Title II funds on recruitment and retention than low-poverty districts. State and district officials visited said that most activities were a continuation of those begun previously.

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Abbreviations

CCD	Core of Common Data
CCSSO	Council of Chief State School Officers
CMSA	Consolidated Metropolitan Statistical Area
LEA	Local Education Agency
MSA	Metropolitan Statistical Area
NCLBA	No Child Left Behind Act

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GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

July 17, 2003

The Honorable Edward M. Kennedy
The Honorable Jeff Bingaman
United States Senate

In December 2001, Congress passed the No Child Left Behind Act (NCLBA), which, among other things, focused attention on closing the achievement gaps among various groups of students. Recently, a body of research has shown that quality teachers play a significant role in improving student performance. However, research has also shown that many teachers, especially those in high-poverty and rural districts,[1] were not certified and lacked knowledge of the subjects they taught. NCLBA established the requirement that all teachers be highly qualified for each core subject they teach by the end of the 2005-06 school year.[2] The criteria for meeting this requirement vary somewhat by grade level and experience but generally require that teachers have (1) a bachelor's degree, (2) state certification, and (3) subject area knowledge for each core subject they teach. This represents the first time the federal government has established specific criteria for teachers. Title II, Part A, of NCLBA replaced the Eisenhower Professional Development and Class Size Reduction programs with the Teacher and Principal Training and Recruiting Fund and Congress appropriated $2.85 billion to help states and districts meet the requirement. In addition, Title II directed these funds to be spent on specific activities to help states and districts recruit, retain, and develop highly qualified teachers. The Department of Education (Education) administers Title II and is responsible for oversight of states' implementation of NCLBA.

Given the need for states and districts to meet the requirement for highly qualified teachers by the end of the 2005-06 school year, you asked us to determine what they were doing to have their teachers meet the requirement. Specifically, this report focuses on the (1) number of teachers who met the highly qualified teacher criteria during the 2002-03 school year, (2) conditions that hinder states' and districts' ability

[1]In this report, the term "district" refers to local education agencies.

[2]Core subjects include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

to meet the requirement, and (3) activities on which states and districts were planning to spend their Title II funds.

In conducting our work, we surveyed 50 states and the District of Columbia. We obtained responses for 37 of these 51 surveys and reported the results as representing only those that responded. The student enrollment for the responding states represented 85 percent of total student population in kindergarten through 12th grade. In addition, we surveyed a nationally representative sample of 830 school districts. We received a response from 511 or 62 percent. We compared relevant characteristics of these respondents to the universe of districts and found them to be similar, which along with the response rate allowed us to report national estimates.[3] For our comparisons of high- and low-poverty districts, we included responding districts that had 70 percent or more of their students approved for free and reduced-price meals as high-poverty and those with 30 percent or less of their students approved for free and reduced-price meals as low-poverty. We visited and interviewed officials in 8 states selected with a range of characteristics that might affect their ability to meet the requirement—California, Connecticut, Illinois, Iowa, Maryland, North Carolina, Delaware, and Wyoming. We visited 2 districts in each of the states and 1 school in each district. We interviewed U.S. Department of Education officials, and officials from professional organizations and unions that represent teachers. Additionally, we analyzed the legislation, related reports, and relevant documents. See appendix I for detailed information on the methodology. We conducted our work from July 2002 through May 2003 in accordance with generally accepted government auditing standards.

Results in Brief

We could not develop reliable data on the number of highly qualified teachers because states did not have the information needed to determine whether all teachers met the criteria. During our visits state officials did not know the criteria for some of their teachers. Education's draft guidance on the criteria for teachers in alternative certification programs changed between June and December of 2002, which meant that states had to reassess their teachers' qualifications. Guidance for special education teachers was not available until December 2002, and it was contained in an

[3]All percentage estimates produced from the district survey have sampling errors of no more than plus or minus 10 percentage points, at a 95 percent confidence level, unless otherwise noted.

appendix to the Title I regulations, but not in the federal regulations. Also, states did not have the information they needed to develop methods to evaluate subject area knowledge of their current teachers. In our survey, 32 of 37 state respondents said that they needed clear and timely guidance from Education. Additionally, officials from 7 of the 8 states we visited said they did not have data systems that could track teacher qualifications by subject, which they needed to determine if a highly qualified teacher taught each core subject. One official added a comment to the survey that said the state data system on teachers "was designed years ago for state certification purposes…[and] has not yet been updated to include all NCLBA criteria for teachers." Some state officials we interviewed also expressed reservations about changing their data systems before complete guidance was issued. Furthermore, 6 of the 8 state officials were reluctant to say that their certified teachers might not be highly qualified because they believed it would harm teacher morale. Thus, we concluded that the survey data related to the number of highly qualified teachers would not likely be reliable.

Both state and district officials cited many conditions that hinder their ability to have all highly qualified teachers. Many state officials reported issues related to teacher pay, such as low salaries, lack of incentive pay programs, and a lack of career ladders as hindrances. For example, 32 of the 37 state officials responding to our survey said that teacher salaries were low compared with other occupations. During our visits officials said that salary issues particularly hindered their efforts to recruit and retain math and science teachers. Twenty-three of the 37 state officials reported teacher shortages in high need subject areas—mostly math, science, and special education. During the late 1990s, there was an increase in demand for workers with math and science backgrounds, especially in information technology, and these occupations generally paid higher salaries than teaching. Other hindrances cited by state officials included few programs to support new teachers, a lack of leadership from principals, and union agreements. Our survey estimates show that salary issues were also hindrances for the majority of the districts, and about 20 percent of all districts cited teacher development conditions such as (1) weak technology training for teachers, (2) few alternative certification programs, and (3) professional development programs of too short a duration to improve teacher quality. In addition, significantly more high-poverty than low-poverty districts identified some conditions as hindrances, according to our survey responses. For example, an estimated 30 percent of high-poverty districts compared to 6 percent of low-poverty districts cited few programs to support new teachers. Officials in rural districts we visited and who commented on the survey said they faced

unusual conditions because some of them were very small, isolated, or had only one or two teachers in total at some schools. While many of the hindrances that state and district officials reported could not be addressed by Education, at least half of the state survey respondents indicated that Education could be more helpful. Specifically, they said they needed more information on, or assistance with, professional development programs, best practices related to teacher quality, and incentives for teachers to teach in high-poverty schools. Education has identified several steps it will take in its 2002-07 strategic plan related to these issues.

Title II provided funds to help meet the requirement for highly qualified teachers, and state survey respondents said they planned to spend most of their Title II funds on professional development activities while districts planned to spend the majority of their funds on recruitment and retention activities authorized under Title II. Generally, state educational agencies could use up to 2.5 percent of the state's Title II funds for authorized state activities. State officials reported they planned to spend 65 percent on professional development activities. These activities could help teachers enhance their subject area knowledge and complete state licensing requirements to meet the criteria for highly qualified teachers. States planned to spend much larger amounts of other federal and state funds than Title II funds on authorized state activities. For example, states reported that 85 percent of the total funds they planned to spend on professional development activities would come from other federal and state funds. Districts received about 95 percent of their state's Title II funds for authorized district activities. From our survey we estimated that districts planned to spend about two-thirds of their Title II funds on activities to help recruit and retain highly qualified teachers, with the remaining funds on activities for professional development. High-poverty districts planned to spend a larger percentage of Title II funds on recruitment and retention activities than low-poverty districts. For example, high-poverty districts planned to spend 77 percent of their Title II funds for recruitment and retention while low-poverty districts planned to spend 59 percent. Recruitment and retention activities, such as establishing incentive pay programs and reducing class sizes, could help attract more highly qualified teachers to schools. Survey results also show that districts planned to spend much larger percentages of other federal, state, and local funds than Title II funds on authorized Title II activities. For example, an estimated 80 percent of the total funds all districts planned to spend on professional development came from other federal, state, and local funds. During our visits, both state and district officials said that most activities were a continuation of those begun in previous years.

In order to help states meet the requirement for highly qualified teachers by the end of the 2005-06 school year, we recommend that the Secretary of Education provide more information on methods to evaluate subject area knowledge of current teachers.

Education provided written comments on a draft of this report including information on the guidance for special education teachers that we incorporated as appropriate. Additionally, Education indicated that it plans to take steps to address our recommendation. Our evaluation of their comments is in the report and Education's comments are in appendix IV.

Background

Recently, a body of research has shown that quality teachers are significant to improving student performance. For example, a 1996 study by Sanders and Rivers[4] examined the effect of teacher quality on academic achievement and found that children assigned to effective teachers scored significantly higher in math than children assigned to ineffective teachers. Research has also shown that many teachers, especially those in high-poverty and rural districts, were not certified and lacked knowledge of the subjects they taught. For example, a report from The Education Trust found that in every subject area, students in high-poverty schools were more likely than other students to be taught by teachers without even a minor in the subjects they teach.[5]

States are responsible for developing and administering their education systems and most have delegated authority for operating schools to local governments. States and local governments provide most of the money for public elementary and secondary education. In 2002, Education reported[6] that 49 percent of the revenue for education was from state sources, 44 percent from local sources, and 7 percent from federal sources. Therefore, it is mostly state and local funds that are used to cover most of the major expenses, such as teacher salaries, school buildings, and transportation. Although the autonomy of districts varies, states are

[4]Sanders, W. and Rivers, J., *Cumulative and Residual Effects of Teachers on Future Student Academic Achievement.* Knoxville, TN: University of Tennessee Value-Added Research and Assessment Center, November, 1996.

[5]Kati Haycock, *Closing the Achievement Gap* (The Education Trust, March 2001).

[6]National Center for Education Statistics, U.S. Department of Education, *The Condition of Education 2002*.

responsible for monitoring and assisting their districts that, in turn, monitor and assist their schools.

The federal government plays a limited but important role in education. The Department of Education's mission is to ensure equal access to education and promote educational excellence throughout the nation by, among other things, supporting state and local educational improvement efforts, gathering statistics and conducting research, and helping to make education a national priority. Education provides assistance to help states understand the provisions or requirements of applicable laws, as well as overseeing and monitoring how states implement them. With the passage of the No Child Left Behind Act, on January 8, 2002, the federal government intensified its focus on teacher quality by establishing a requirement in the act for teachers across the nation to be "highly qualified" in every core subject they teach by the end of the 2005-06 school year.[7]

While the act contains specific criteria for highly qualified teachers by grade and experience levels, in general, the act requires that teachers: (1) have a bachelor's degree, (2) have state certification, and (3) demonstrate subject area knowledge for each core subject they teach. Table 1 lists the specific criteria by grade and experience levels as defined in the act.

[7]Title I of NCLBA requires that every state that accepts Title I funds must ensure that all their teachers meet the requirement. All states and the District of Columbia have accepted the funds. Title I of NCLBA is designed to help educate disadvantaged children—those with low academic achievement attending schools serving high-poverty areas. Title I was appropriated funding of over $10 billion in fiscal year 2002.

Table 1: Federal Criteria for a Highly Qualified Teacher

Grade level and experience	Federal criteria
Any public elementary school or secondary school teacher.	Has obtained full state certification as a teacher (including alternative certification) or passed the state teacher licensing examination and holds a license to teach in the state; however, when teaching in a charter school,[a] the teacher may not be certified or licensed if the state does not require it. Further, the teacher has not had certification or licensure requirements waived on emergency, temporary, or provisional basis.
Elementary school teacher new to the profession.	Holds at least a bachelor's degree; and has passed a rigorous state test to demonstrate subject knowledge and teaching skills in reading, writing, math, and other areas of the basic elementary school curriculum (these tests may be included in state certification or licensing tests).
Middle or secondary school teacher new to the profession.	Holds at least a bachelor's degree and has passed a rigorous state academic subject test in each of the academic subjects in which the teacher teaches (this may be the state certification or licensure test) or for each academic subject taught, the teacher has successfully completed an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.
Elementary, middle, or secondary teacher not new to the profession.	Has met the above standards for new elementary, middle, and secondary school teachers or demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective, uniform state standard of evaluation that (1) is set by the state for both grade appropriate academic subject matter knowledge and teaching skills; (2) is aligned with challenging state academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators; (3) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects a teacher teaches; (4) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the state; (5) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject; (6) is made available to the public upon request; and (7) may involve multiple, objective measures of teacher competency.

Source: NCLBA, Pub.L. No. 107-110, section 9101(2002).

[a]Charter schools are public schools that are exempt from a variety of local and state regulations.

For Title II, Part A of the act, Congress appropriated $2.85 billion to the Teacher and Principal Training and Recruiting Fund in fiscal year 2002—about $740 million more than states received in fiscal year 2001 under the previous two programs that it replaced—the Eisenhower Professional Development and Class Size Reduction programs. The purpose of the fund is to increase student academic achievement by providing support for states and districts to implement authorized activities cited in Title II to help them meet the requirement for highly qualified teachers. (See apps. II and III for state and district authorized activities.)

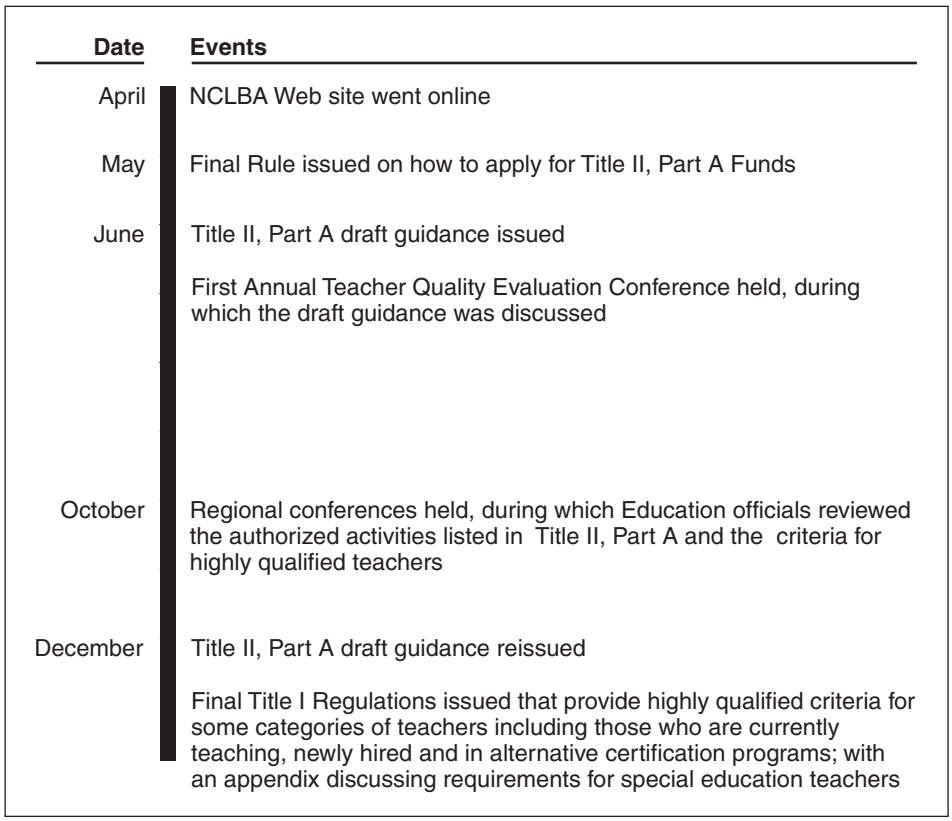
States had to complete an application in order to receive funds. All applications were due by June 2002, and states received the funds by August 2002. The funds were to be distributed according to the formula defined in the act. Specifically, states and districts received an amount

equal to what they received for fiscal year 2001 under the two previous programs. The additional $740 million was distributed to states and districts based on the number of families with children ages 5 to 17 who had incomes below the poverty threshold[8] and the relative population of children ages 5 to 17. The act requires states to ensure that districts target funds to those schools that have the highest number of teachers who are not highly qualified, the largest class sizes, or have been identified as in need of improvement.

To help states understand and implement the new law, Education took a number of actions. The department established a Web site, developed an application package for the formula grant program, issued draft guidance, and held informational conferences for states and districts. Figure 1 summarizes Education's assistance to states.

[8]For 2002, the poverty threshold was $18,556 annually for a family of four.

Figure 1: Education's Assistance to States During Calendar Year 2002



Source: GAO analysis.

In June 2002, Education issued draft guidance entitled "Improving Teacher Quality State Grants" which has served as Education's principle form of assistance to states. In December of 2002, Education expanded and modified the draft guidance and issued final regulations on NCLBA that included some criteria related to the requirement for highly qualified teachers. Education does not plan to issue a final version of its draft guidance; instead, the draft includes the statement that it "should be viewed as a living document" that will be updated (1) as new questions arise, (2) if there is a change in the program statute that requires modification, or (3) when Education determines that more information would be helpful.

Many States Were Uncertain about Numbers of Highly Qualified Teachers

In-depth discussions with officials in 8 states revealed that they could not determine the number of highly qualified teachers with accuracy because of one or more factors. All state officials said they did not know the criteria for some of their teachers because Education's draft guidance changed and was not complete. Officials also did not have all the information they needed to develop methods to evaluate subject area knowledge for their current teachers. Accordingly, officials in all of the states interviewed and nearly all surveyed said they needed complete and clear guidance before they could comply with the law. Most of the states we visited also did not have data systems that could track teacher qualifications by core subject taught, which they would have to do to ensure that teachers were teaching only those subjects for which they had demonstrated subject area knowledge. Finally, many state officials we visited were reluctant to say that their certified teachers might not be highly qualified.

States Did Not Have Complete or Consistent Criteria to Determine the Number of Highly Qualified Teachers

During our review, Education changed its criteria for teachers who were in alternative certification programs and it reissued the draft guidance to qualify only teachers in certain programs.[9] The revised draft guidance stated that only those teachers enrolled in alternative certification programs with specific elements, such as teacher mentors, would be considered highly qualified. As a result, state officials had to recount this group of teachers by determining which alternative certification programs met the standard and then which teachers participated in those programs. In one state we visited, there were about 9,000 teachers in alternative certification programs and all were considered highly qualified until the revised draft guidance was issued. As of May 2003, an official said she was still trying to determine the number of teachers who were highly qualified.

Also during our review, state officials were uncertain about the criteria for special education teachers. The draft guidance that was available during most of our visits did not address special education teachers. As a result, state officials could not know, for example, whether a special education

[9]Many states have alternate routes to certification, referred to here as alternative certification programs, that allow an individual who has a bachelor's degree from a college or university but who does not hold a degree in education, to receive a license to teach. Alternative certification programs range from those that place people in classrooms immediately to longer programs that delay placing people in classrooms until they have completed course work and received a mentor. While these programs vary within and among states, nearly all states have some type of alternative to the traditional path of majoring in education in order to become a teacher.

teacher teaching math and reading would have to demonstrate subject area knowledge in both or neither of the subjects. For school year 1999-2000, special education teachers represented about 11 percent of the national teacher population,[10] so that, on average, state officials were unable to determine whether at least a tenth of their teachers met the highly qualified criteria. In some districts, special education teachers represented a larger portion of the workforce. For example, in one high-poverty urban district that we visited, special education teachers were 21 percent of their teachers. Education issued final Title I regulations on December 2, 2002, with an appendix that discussed the highly qualified requirements for special education teachers, among other things. However, the requirements are not discussed in the federal regulations nor are they discussed in the Title II draft guidance that was issued December 19, 2002. In addition, as of March 2003 some officials still had questions about the requirements. Perhaps because the guidance was issued in an appendix, it was not given the prominence needed to ensure that all officials would be aware of the information.

Furthermore, neither Education's draft guidance nor its regulations provided more information than the law to help state officials develop methods other than tests to evaluate their current teachers' subject area knowledge. The law allows states to use a "high, objective uniform state standard of evaluation" instead of a test. Education's draft guidance repeated the language of the law, but provided no further interpretation. In addition, Education officials said they would review states' implementation of this provision when they conduct compliance reviews and then determine if the state evaluation is in compliance with the law. State officials said they needed more information, such as examples, to be confident of what Education would consider adequate for compliance with the law. State officials prefer evaluations instead of tests, according to an official at the Council of Chief State School Officers (CCSSO), because they expect evaluations to be less expensive, more flexible, and more acceptable to teachers and unions. Such evaluations might be done through classroom observations, examination of portfolios, and peer reviews. In March 2003, CCSSO held a conference attended by about 25 state officials and several Education officials to discuss the implementation of state evaluations. At that conference, state officials said

[10]National Center for Education Statistics, *Schools and Staffing Survey, 1990-2000*, "Number and Percent of Public School Special Education Teachers Who Teach Special Education Classes as Their Main Assignment or as Their Second Assignment" (2002).

Education's lack of specificity was particularly a problem for evaluating middle and high school teachers who had not demonstrated subject area knowledge. According to our survey data, 23 of 37 state officials said they would have difficulty fulfilling the highly qualified requirement for middle school teachers and 14 anticipated difficulty for high school teachers. According to district survey results, 20 percent anticipated difficulties in meeting the federal criteria for middle school teachers and 24 percent for high school teachers. Furthermore, as table 2 shows, a significantly higher percentage of high-poverty districts reported they would have greater difficulty fulfilling the requirement for teachers, especially at the middle and high school levels, than would low-poverty districts.

Table 2: Estimated Percentages of Districts That Will Have Difficulty Meeting the Requirement for Highly Qualified Teachers by Grade Level and Poverty

Type of school	All districts	High-poverty districts	Low-poverty districts
Elementary	7	18	4
Middle/junior high	20	35	13
High	24	46[a]	15

Source: GAO survey.

[a]The percentage estimate for high schools in high-poverty districts has a 95 percent confidence interval of plus or minus 11 percentage points.

State officials from the 8 states we visited said they could not determine the number of highly qualified teachers because the draft guidance was changing, not clear, or incomplete. Most, 32 of 37, state officials responding to our survey said they needed clear and timely guidance to help them meet the law.

State Data Systems Did Not Track Federal Criteria

Officials from 7 of the 8 states we visited told us they did not have data systems that would allow them to track teachers' qualifications according to the federal criteria by every subject taught. Officials in one state projected that it would take at least 2 years before the state could develop and implement a system to track teachers by the federal criteria. State officials we visited said since their state certifications had not required some teachers to demonstrate subject area knowledge as required in the federal criteria, their information systems did not track such information. In written comments to our survey, for example, one official said, "Questions [related to counting teachers] are impossible to answer at this point because we not have finished the identification of those who need to be tested or evaluated." Another respondent wrote that the data system

"was designed years ago for state certification purposes…[and] has not yet been updated to include all NCLBA criteria for teachers." Other state officials also told us during our visits and through survey comments that their state certifications did not always require teachers to demonstrate subject area knowledge, so they did not have information on many teachers' qualifications for this criteria. Another state official wrote, "[We] do not have data on teachers who were grand fathered in before 1991 or from out of state… who do not have subject matter competency." Given the cost and time they thought it would take, some state officials expressed reservations about changing their data systems before Education provided complete guidance.

Some State Officials Reluctant to Report Teachers Not Highly Qualified

Officials in 6 of the 8 states visited were reluctant to report their certified teachers might not be highly qualified. Three of these officials equated their state certification with the federal criteria for a highly qualified teacher even though they differed. They expressed a reluctance to say that their state certification requirements did not produce a highly qualified teacher even though the requirements did not match all the federal criteria, such as demonstration of subject area knowledge. Additionally, state officials expressed concern about the morale of teachers who are state certified but who would not meet the federal criteria. They were also concerned about how teachers and unions would react to testing already certified teachers. For example, in 5 states we visited officials told us that the unions in these states objected to the testing of certified teachers.

State and District Officials Reported Many Conditions as Hindrances to Meeting the Law

Many state officials responding to our survey reported that teacher salary issues and teacher shortages were hindrances. State officials also identified other conditions such as few programs to support new teachers, lack of principal leadership, teacher training, and union agreements. District officials also cited teacher salary and teacher development issues as conditions that hindered them. Our district survey also shows that significantly more high-poverty districts reported some conditions as hindrances than low-poverty districts, and rural districts officials we visited cited hindrances specific to their small size and isolated locations. In our state survey, officials indicated that they needed more information from Education on professional development programs, best practices, and developing incentives for teachers to teach in high-poverty schools.

State Officials Cited Several Problems as Hindrances

Many state officials responding to our survey reported that pay issues hindered their ability to meet the requirement to have all highly qualified teachers. These issues included low salaries, lack of incentive pay programs, and a lack of career ladders for teachers. For example, 32 of 37 state respondents said low teachers' salaries compared to other occupations was a hindrance. Officials we visited said that because of the low salaries it has been more difficult to recruit and retain some highly qualified teachers, especially math and science teachers. Several occupations are open to people with a bachelor's degree in math and science, such as computer scientists and geologists. During the late 1990s, there was an increase in demand for workers with math and science backgrounds, especially in information technology occupations. Between 1994 and 2001, the number of workers employed in the mathematical and computer sciences increased by about 77 percent while the number of teachers increased by about 28 percent and total employment increased by about 14 percent. Furthermore, the math and science occupations have generally paid higher salaries than teaching positions. The U.S. Department of Labor's Bureau of Labor Statistics data indicate that in 2001 average weekly earnings was $1,074 for mathematical and computer scientist positions and $730 for teachers. Some research shows that teacher salary is only one of many factors that influence teacher recruitment and retention. For example, the American Association of School Administrators explained the relationship between pay and working conditions in a report on higher pay in hard-to-staff schools.[11] The report stated "How money matters becomes much clearer if salary is viewed as just one of many factors that employees weigh when assessing the relative attractiveness of any particular job, such as opportunities for advancement, difficulty of the job, physical working conditions, length of commute, flexibility of working hours, and demands on personal time. Adjusting the salaries upward can compensate for less appealing aspects of a job; conversely, improving the relative attractiveness of jobs can compensate for lower salaries."

Many state survey respondents also cited teacher shortages as a hindrance. Specifically, 23 of the 37 state officials reported teacher shortages in high-need subject areas—such as, math, science, and special

[11]Cynthia Prince, *Higher Pay in Hard to Staff Schools: The Case for Financial Incentives*, American Association of School Administrators, June 2002.

education.[12] Additionally, 12 state officials reported a shortage in the number of new highly qualified teachers in subject areas that are not high need, and 12 reported that having few alternative certification programs hindered their efforts. Education experts have debated the causes and effects of teacher shortages. Some experts argue that the problem is not in the number of teachers in the pool of applicants but in their distribution across the country. Others argue that poor retention is the real cause of teacher shortages. As for alternative certification programs, they were established to help overcome teacher shortages by offering other avenues for people to enter the teaching profession. However, in 1 state we visited officials said the success of these programs had been mixed because the content and length of the programs varied and some alternative certification teachers were better prepared than others.

Although states have been facing teacher shortages in some subject areas for years, the new requirement for highly qualified teachers could make it even more difficult to fulfill the demand for teachers. The new law requires states to ensure that teachers only teach subjects for which they have taken a rigorous state test or evaluation, completed an academic major or graduate degree, finished course work equivalent to such degrees, or obtained advanced certification or credentialing in the subjects. Previously, states allowed teachers to teach subjects without such course work or credentials. From its Schools and Staffing Survey,[13] the National Center for Education Statistics, within the Department of Education, reported that in 1999-2000, 14 to 22 percent of students in middle grades and 5 to 10 percent of high school students taking English, math, and science were in classes taught by teachers without a major, minor, or certification in the subjects they taught. Also, the report indicated that in the high school grades, 17 percent of students enrolled in physics and 36 percent enrolled in geology/earth/space science classes were taught by out-of-field teachers.

Some states also cited several other conditions that might hinder their ability to meet the requirement for highly qualified teachers. For example,

[12]In this report, when discussing a shortage of teachers in the high need subject area of special education, we are referring to a shortage of persons qualified to be special education teachers to teach core subjects to children with disabilities as defined in Section 602 of the Individuals with Disabilities Education Act Amendments of 1997.

[13]Department of Education, *Qualifications of the Public School Teacher Workforce: Prevalence of Out-of-Field Teaching 1987-88 and 1999-2000*, *Statistical Analysis Report*, Schools and Staffing Survey, National Center for Education Statistics, 2002.

13 of the 37 state respondents reported few programs to support new teachers,[14] and 9 reported large classes as hindrances. State respondents also cited work environment factors such as teacher performance assessments, a lack of principal leadership, and lack of school supplies and equipment as hindrances. See table 3 for more information on hindrances reported by state officials.

Additionally, 7 state officials who responded to our survey cited union agreements as a hindrance. Officials in 5 states that we visited said that the teachers' unions objected to testing currently certified teachers for subject area knowledge, and officials in 2 of these states also said that current teachers might leave rather than take a test. An official representing the American Federation of Teachers (AFT), an organization that represents teachers, school support staff, higher education faculty and staff, among others, said that AFT supports the federal definition for highly qualified teachers and incentive pay for teachers in high-need subject areas and that certified teachers should have a choice between taking a test and having a state evaluation to determine subject area knowledge. The National Education Association, an organization with members who work at every level of education, issued an analysis of the NCLBA that identified several changes it believes should be made in the law, including clarifying the requirement for highly qualified teachers. The union officials we spoke with from 2 states we visited said they also support the requirement for highly qualified teachers but expressed concerns about how their states would implement the legislation. One state union official said the current state process for certification requires multiple tests—more than is required in the legislation—and the union is concerned that the state will collapse the testing and streamline the teacher preparation process as part of its changes to meet the requirement. The union official from the other state said that his union was concerned because the state's approach for implementing the requirement for highly qualified teachers has become a moving target and this causes frustration for teachers.

[14]As provided in Title II of NCLBA, programs to support new teachers include teacher mentoring, team teaching, reduced class schedules, and intensive professional development.

Table 3: Number of States Reporting on Conditions That Hinder Their Ability to Meet the Requirement for Highly Qualified Teachers (Ranked from Highest to Lowest)

Number of states reporting this condition to be a hindrance[a] (n=37)	Condition
32	Teachers' salaries low compared to other occupations.
23	Shortage in the number of teachers who meet the Title II requirement for highly qualified teachers in subject areas where there is high need.
21	Teachers' salaries low compared to teachers elsewhere.
18	Lack of incentive pay programs.
17	Lack of a career ladder for teachers.
14	Professional development programs not of sufficient duration to have an effect on teacher quality.
13	Few programs to support new teachers.
12	Few alternative certification programs.
12	Shortage in the number of new teachers who meet the Title II requirement for highly qualified teachers in subject areas that are not high need.
12	School lacks supplies and equipment.
11	Lack of leadership on the part of principals.
9	College of Arts and Science Departments do not work with college Education Departments to develop teacher preparation programs.
9	Large class sizes resulting in teacher retention problems.
9	Many currently employed teachers do not meet the Title II requirement for highly qualified teachers in areas that are not high need.
7	Teacher assessments not based on the Title II requirement for highly qualified teachers.
7	Weak training for teachers in the use of technology.
7	Union agreements inhibit implementing activities encouraged by Title II to develop highly qualified teachers.
7	Professional development programs not based on recent scientific research on teaching methods or subject matter.
4	State certification requirements not meeting the Title II requirement for highly qualified teachers.
3	Alternative certification programs not providing teachers with adequate teaching skills.
3	Teacher preparation programs not aligned with state subject content standards.
3	State and local laws and regulations inhibit implementing activities encouraged by Title II to develop highly qualified teachers.
2	Teacher preparation programs not providing teachers with adequate subject matter expertise.

Source: GAO survey.

[a]These numbers include states that reported these conditions as a moderate, great, or very great hindrance.

School Districts Reported Hindrances Similar to Those Reported by States and More High-Poverty Districts Reported Certain Hindrances

School district estimates from our survey show that, similar to state respondents, salary issues hinder districts' efforts to meet the requirement for highly qualified teachers. Almost 60 percent of district officials cited low teacher salaries compared to other occupations as a hindrance, with a significantly higher number of high-poverty than low-poverty district officials reporting this as a hindrance. During our site visits to 4 rural districts, officials said that their salaries could not compete with salaries offered in other occupations and locations. One official said that pay in the rural districts was low compared to teacher salaries in surrounding states. Both state and district officials also said that these salary conditions affect the recruitment and retention of highly qualified teachers.

Our survey estimates also show that conditions related to teacher development were hindering districts' ability to meet the highly qualified teacher requirement. The conditions reported by districts included (1) weak training for teachers in the use of technology (28 percent), (2) few alternative certification programs (18 percent), and (3) professional development programs that are not of sufficient duration to improve teacher quality (23 percent). Weak training programs can leave teachers unprepared to deal with all the challenges of teaching and lead to job dissatisfaction. Table 4 provides estimates of the percentages of districts reporting conditions that hinder their ability to meet the requirement for highly qualified teachers.

Table 4: Estimated Percentages of Districts Reporting on Conditions That Hinder Their Ability to Meet the Requirement for Highly Qualified Teachers (Ranked from Highest to Lowest)

Percent of all districts reporting this condition to be a hindrance[a]	Condition
57	Teachers' salaries low compared to other occupations.
37	Teachers' salaries low compared to teachers elsewhere.
28	Training for teachers in the use of technology is weak.
25	Lack of incentive pay programs.
23	Professional development programs not of sufficient duration to have an effect on teacher quality.
19	Shortage in the number of teachers who meet the Title II requirement for highly qualified teachers in subject areas where there is high need.
18	Teacher preparation programs not providing teachers with adequate subject matter expertise.
18	Few alternative certification programs.
17	College of Arts and Science Departments not working with college Education Departments to develop teacher preparation programs.
16	Alternative certification programs not providing teachers with adequate teaching skills.
16	Few programs to support new teachers.
16	Lack of a career ladder for teachers.
16	Shortage in the number of new teachers who meet the Title II requirement for highly qualified teachers in low achieving schools.
15	Teacher preparation programs not aligned with state subject content standards.
14	School lacks supplies and equipment.
12	Teacher assessments not based on the Title II requirement for highly qualified teachers.
10	Union agreements that inhibit implementing activities encouraged by Title II to develop highly qualified teachers.
7	Lack of leadership on the part of principals.
7	Large class sizes resulting in teacher retention problems.
7	Professional development programs not based on recent scientific research on teaching methods or subject matter.
7	State certification requirements not meeting the Title II requirement for highly qualified teachers.
6	Many currently employed teachers not meeting the Title II requirement for highly qualified teachers in areas that are not high need.
4	State and local laws and regulations inhibit implementing activities encouraged by Title II to develop highly qualified teachers.

Source: GAO survey.

[a]These percentages include districts that reported these conditions as a moderate, great, or very great hindrance.

While the ranking of most of the hindrances reported by districts and states were similar, three conditions were reported among the top third of hindrances for districts but among the bottom third for states. Specifically, these conditions were (1) alternative certification programs do not provide teachers with adequate teaching skills, (2) teacher preparation programs do not provide teachers with adequate subject matter expertise, and (3) training for teachers in the use of technology is weak. The first two of these conditions relate to programs that are usually responsibilities of the state departments of education. States or districts can address the third condition, technology training. These conditions indicate areas in which states and districts can work together to improve programs and help meet the requirement for highly qualified teachers.

A significantly higher number of high-poverty districts than low-poverty districts identified some conditions as hindrances. As table 5 shows, in addition to teacher shortages and pay issues, a larger percentage of high-poverty districts cited few programs to support new teachers and few alternative certification programs, among others, as hindrances to meeting the requirement.

Table 5: Estimated Percentages of High- and Low-Poverty Districts with Significant Differences in the Hindrances to Meeting the Requirement

Condition	Percent of high-poverty districts	Percent of low-poverty districts
Teachers' salaries are low compared to other occupations.	75	50
Teachers' salaries are low compared to teachers elsewhere.	57	33
Lack of incentive pay programs.	32	17
Few programs to support new teachers.	30	6
Shortage in the number of teachers who meet the Title II requirement for highly qualified teachers in subject areas where there is a high need.	29	13
Shortage in the number of new teachers who meet the Title II requirement in low achieving schools.	26	10
Lack of career ladder for teachers.	25	8
Few alternative certification programs.	24	11
Teacher preparation programs do not provide adequate subject matter expertise.	24	13
Many currently employed teachers do no meet the Title II requirement in areas that are not high need.	13	4
Large class sizes resulting in teacher retention problems.	12	4
Lack of leadership on the part of principals.	12	3

Source: GAO survey.

Note: Each difference between high- and low-poverty districts in this table is significant at the 95 percent confidence interval.

During our site visits, officials from high-poverty districts told us they had great difficulty retaining teachers. For example, officials in one district said that although the district provided training for new teachers in the skills they needed, these teachers became more marketable after they completed the training and often left for higher paying teaching positions. According to these officials, the schools in this district did not always benefit from the district's training programs. High-poverty district officials also said they could not compete with surrounding, wealthier districts in teacher pay. Officials in these districts and at the American Association of School Administrators also said that some unions do not support the use of incentive pay for high-poverty schools because they believe that salary scales should be equal for all schools within a district.

Rural district officials we visited and also those who provided survey comments said they faced unusual hindrances because some of them were very small, isolated, or had only one or two teachers in total at some schools. During our site visits, some officials from rural districts also said

that they were facing teacher shortages because not enough teachers were willing to teach in rural districts. For example, one official in a large, rural state said that the state had only one university, which makes it difficult for teachers to obtain further course work to meet the federal criteria for subject area knowledge. Since many teachers in this state's rural districts had to teach more than one core subject, with limited access to subject area training, they may not meet the highly qualified criteria for all subjects they teach. One survey respondent also wrote, "Rural schools have to assign teachers to several subject areas at [the] secondary level. We do not have large numbers of students, and teachers have to wear more than one hat. Rural schools are also a long way from colleges and to require licensure in every subject they teach is ludicrous." In a 2001 report to Congress, Education estimated that 84 percent of 4-year institutions would offer distance education courses[15] in 2002. Such courses may help address this hindrance.

States Say They Need More Information from Education and Education Plans to Work with States on Some Issues

As districts work to address the conditions that affect their ability to meet the new federal requirement, they look to their state officials for guidance and technical assistance. In turn, states look to Education for help. Many of the hindrances that state and district officials reported related to conditions that they could address such as teachers' salaries, the number of alternative certification programs, and certification requirements. However, states indicated they needed some additional information and assistance from Education. At least half of the 37 state respondents reported needing (1) information or other assistance to meet the requirement that professional development programs be based on recent scientific research and be of sufficient duration to have an effect on teacher quality, (2) information on best practices in the area of teacher quality, and (3) assistance in developing incentives for teachers to teach in high-poverty schools. Education's 2002-07 strategic plan identifies several steps it will take to work with states. Specifically, the strategies listed under the plan's goal for improving teacher and principal quality include supporting professional development in research-based instruction and encouraging innovative teacher compensation and accountability systems. Additionally, in December 2002, Education reorganized and established a new office to administer the Title II program.

[15]The Higher Education Act defines distance education as an educational process where the student is separated in time or place from the instructor.

To Help Teachers Meet the Requirement States Planned to Spend Most Title II Funds on Professional Development Activities, and Districts Will Spend Most on Recruitment and Retention Activities

To help meet the requirement for highly qualified teachers, state officials planned to spend most of their Title II funds on professional development activities, and district officials planned to spend a majority of their Title II funds on recruitment and retention activities. State and district officials planned to spend much larger amounts of other federal,[16] state, and local funds than Title II funds on the activities authorized in the act. Generally, state and district officials told us they were continuing activities from previous years. The survey data also indicated high-poverty districts relied more on Title II funds for recruitment and retention activities than low-poverty districts. In addition, while the act requires districts to target their Title II funds to schools that meet certain criteria, until district officials know the number of highly qualified teachers and where they are located, they cannot fully comply with this requirement.

States Planned to Spend the Majority of Title II Funds on Professional Development

Generally, state educational agencies could use up to 2.5 percent of the state's Title II funds for authorized state activities.[17] Twenty-four state officials responding to our survey planned to spend about 65 percent of their Title II funds on professional development activities to develop and support highly qualified teachers and principals. For example, professional development activities could help teachers enhance their subject area knowledge and complete state licensing requirements to meet the criteria for highly qualified teachers. During our site visits, state officials described their professional development activities as seminars, conferences, and various instructional initiatives. For example, in one state we visited, officials planned to hold a workshop to provide middle and high school math teachers with technology training so that they could incorporate interactive Web sites in their instruction. Generally, state officials said

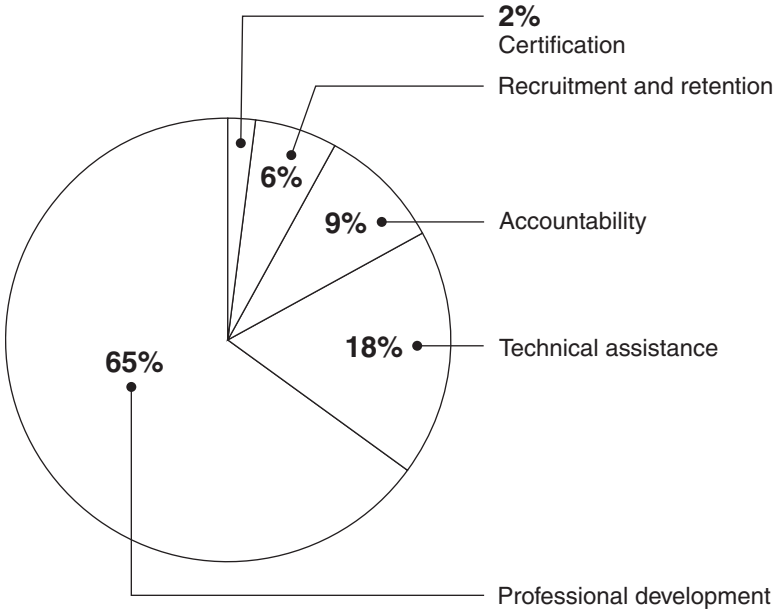
[16]For example, districts must use 5 to 10 percent of their Title I-A funds in fiscal years 2002 and 2003 for professional development activities to ensure that teachers become highly qualified.

[17]State education agencies receive 5 percent of the total grant funds and can retain up to 1 percent of these funds for administrative costs. Of the remaining funds, 2.5 percent must be spent on subgrants to eligible partnerships and the remaining funds are to be used for authorized activities. We grouped the Title II activities into five categories: (1) accountability, (2) certification, (3) professional development, (4) recruitment and retention, and (5) technical assistance. Appendix II lists all 18 activities.

they planned to use Title II funds to continue activities that were begun in previous years.

While professional development activities were to receive the largest share of funds, survey results show state officials planned to also spend Title II funds on other activities cited in the act. Officials in 28 states planned to spend about 18 percent on technical assistance activities, such as providing information about the requirement for highly qualified teachers to districts via the state Web site. Certification activities received the smallest percentage of Title II funds–2 percent. These activities include efforts to promote certification reciprocity with other states and efforts to establish, expand, or improve alternative routes for certification. (See fig. 2.)

Figure 2: Planned Spending of Title II Funds by Reporting States



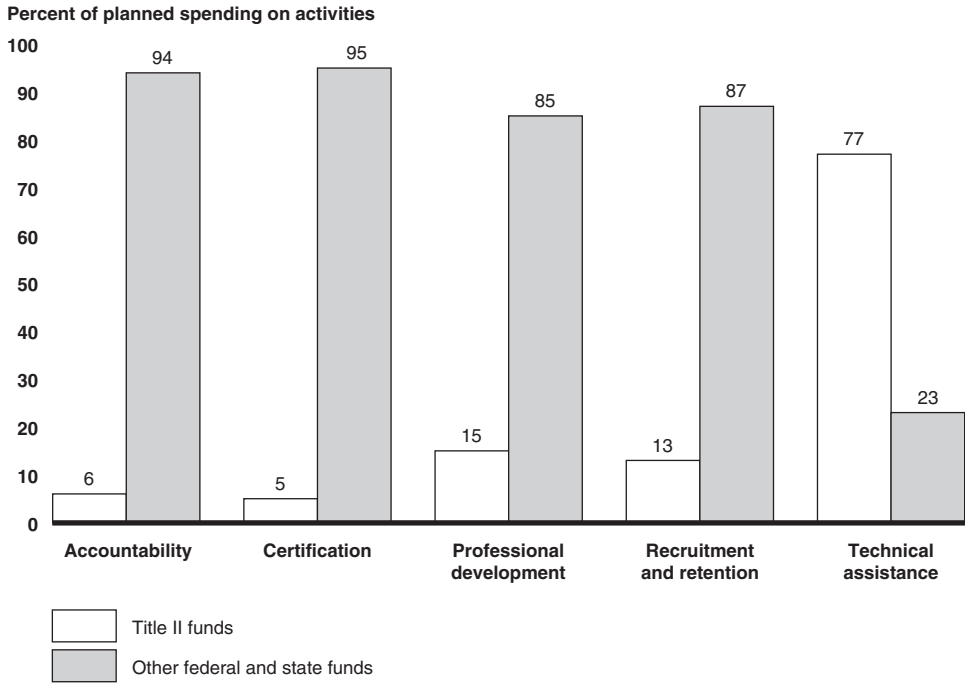
Source: The 37 states that responded to GAO survey.

Title II Funds Are a Small Part of Total Funds

State officials reported they planned to spend much larger amounts of other federal and state funds than Title II funds on nearly all of the authorized Title II activities. For example, states reported that 85 percent of the total funds they planned to spend on professional development activities would come from other federal and state funds. The one exception was technical assistance activities, where Title II funds

accounted for 77 percent of the total. (See fig. 3.) Providing technical assistance to districts is an important role for states. In our visits to districts, several officials said they needed more information and technical assistance from their state to understand and implement the law.

Figure 3: Sources of Funds for Planned Spending by States on Title II Activities



Source: The 37 states responding to GAO survey.

Districts Planned to Spend a Majority of Their Title II Funds on Recruitment and Retention Activities

Districts received about 95 percent of their state's Title II funds for authorized activities.[18] Based on our survey, district officials planned to spend an estimated 66 percent of their Title II funds on recruitment and retention activities and 34 percent on activities related to professional development. Class size reduction activities were the largest funded recruitment and retention activity and accounted for 56 percent of total Title II funds. In a majority of our site visits we learned that district officials used these funds to hire additional highly qualified teachers to

[18]Districts are to spend their Title II funds on 9 authorized activities that we grouped into 2 categories: (1) professional development and (2) recruitment and retention. Appendix III lists all 9 activities.

continue activities developed under the previous Class Size Reduction Program. Class size reduction activities may help improve teacher retention because, according to an Education report,[19] teachers in small classes spend less time on classroom management and more time providing instruction, thus raising the teacher's level of job satisfaction. While class size reduction activities can be seen as a retention tool, they may also increase the number of highly qualified teachers that need to be hired. This may be a problem for some districts and states. In fact, officials in one large state we visited said class size reduction activities presented a challenge by increasing the number of classes not being taught by a highly qualified teacher.

Additionally, district officials in our site visits said that they implemented or planned to implement a broad range of professional development activities. For example, one district had a teacher-coach program for its math and science teachers. This program used senior teachers as full-time coaches to assist less experienced teachers with instructional strategies and curriculum preparation. Other programs focused on math and reading, varied instructional strategies for different types of students, and use of technology. District officials in our site visits said most activities were in place prior to the act.

While all districts spent more on recruitment and retention activities than professional development, there were differences between high- and low-poverty districts. From our survey, we estimate that high-poverty districts planned to spend a significantly larger percentage of Title II funds on recruitment and retention and a smaller percentage on professional development activities than low-poverty districts. (See table 6.)

Table 6: Estimated Percent of Spending Title II Funds by Activities for All Districts, High-Poverty Districts, and Low-Poverty Districts

Activity	All districts	All high-poverty districts	All low-poverty districts
Professional development activities	34	23	41
Recruitment and retention/class size reduction	66	77	59

Source: GAO survey.

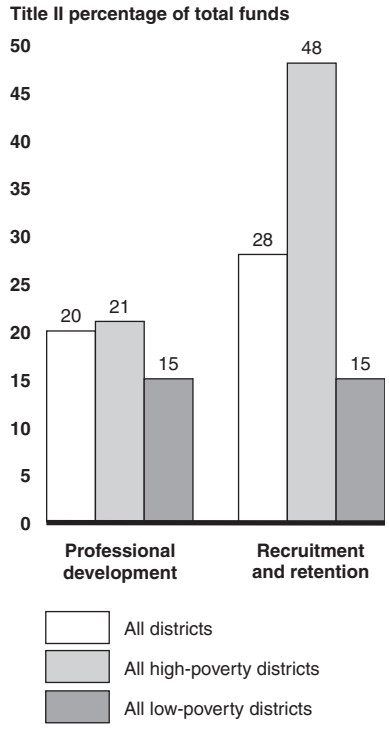
[19]U. S. Department of Education, *The Class-Size Reduction Program: Boosting Student Achievement in Schools Across the Nation, A First-Year Report*, September 2000.

Note: Each difference between high- and low-poverty districts in this table is significant at the 95 percent confidence interval.

Districts Planned to Spend Larger Amounts of Other Funds and Title II Funds Are a Larger Percentage of Total for High-Poverty Districts

From our survey, we estimated all districts planned to spend much larger percentages of other federal, state, and local funds than Title II funds on authorized activities but in high-poverty districts the share of the funds was lower. Overall, 80 percent of the total funds districts planned to spend on professional development activities came from other federal, state, and local funds. Title II funds represented a larger percentage of total funds spent on authorized activities for high-poverty districts than low-poverty districts. For example, in high-poverty districts Title II funds were 48 percent of the funds they planned to spend for recruitment and retention activities compared to 15 percent in low-poverty districts. There may be several reasons for these differences. For example, Title II allocated more funds to those districts with more high-poverty families, and low-poverty districts may have had more local funds to contribute to the total. Figure 4 shows the Title II percentage of total funds for professional development activities and recruitment and retention activities, for all, high-poverty, and low-poverty districts. A majority of district officials said they planned to fund activities that were begun in previous years.

Figure 4: Estimated Spending of Title II Funds as a Percentage of Total Funds by Activities for All Districts, High-Poverty Districts, and Low-Poverty Districts



Source: GAO district survey.

Approximately One-Third of All Districts Were Targeting Funds

We estimated about one-third of all districts (34 percent) were targeting their Title II funds as required by the act. The act requires districts to target funds to those schools (1) with the highest number of teachers who are not highly qualified, (2) with the largest class sizes, or (3) in need of improvement. There was little difference between the percentages of high- and low-poverty districts that targeted their funds or between urban and rural districts. For example, 29 percent of high-poverty districts and 30 percent of low-poverty districts reported targeting some of their Title II funds. Additionally, some district officials we visited said they did not target funds according to the criteria listed in the act but that they targeted funds in other ways such as to support math and science programs for teachers and for administrative leadership programs. It may be too early for district officials to fully implement this targeting requirement. Until they know the true number of teachers who are highly qualified, they cannot target the schools with the highest numbers of teachers who are not highly qualified.

Conclusions

Education officials have had to interpret and help states implement many new requirements established by the NCLBA, including the highly qualified teacher requirement. During this first year of implementation, state officials were still determining how they could assess whether their teachers met all the criteria and identifying steps they needed to take to meet the new requirement. Generally, state and district officials continued to be challenged by many longstanding hindrances and they continued to fund activities from previous years.

Education issued regulations and draft guidance to help states begin to implement the requirement for highly qualified teachers and has plans to help states with some of their challenges. However, state officials need more assistance from Education, especially about methods to evaluate current teachers' subject area knowledge. Without this information state officials are unsure how to assess whether their current teachers meet the highly qualified requirement. This would also help them accurately determine the number of teachers who are highly qualified and take appropriate steps, such as deciding on which activities to spend Title II funds and targeting Title II funds to schools with the highest numbers of teachers who are not highly qualified. It is important that states have the information they need as soon as possible in order to take all necessary actions to ensure that all teachers are highly qualified by the 2005-06 deadline.

Recommendation for Executive Action

In order to assist states' efforts to determine the number of highly qualified teachers they have and the actions they need to take to meet the requirement for highly qualified teachers by the end of the 2005-06 school year, we recommend that the Secretary of Education provide more information to states. Specifically, information is needed about methods to evaluate subject area knowledge of current teachers.

Agency Comments and Our Evaluation

We received written comments on a draft of this report from Education. These comments are reprinted in appendix IV. In response to our recommendation related to requirements for special education teachers, Education stated that the appendix of the Title I Final Regulations clarifies how the highly qualified requirements apply to special education teachers. Consequently, we modified the report to reflect this information and we withdrew this recommendation.

Education indicated it plans to take steps to address our recommendation on the need for information about methods to evaluate subject area

knowledge of current teachers. Education stated that it will continue to work with state officials and will actively share promising strategies and models for "high objective uniform State standard of evaluation" with states to help them develop ways for teachers to demonstrate subject area competency.

Also, Education commented that it views a "one–size fits all" approach to addressing many of the issues raised in the report as undesirable because states and districts will have to meet the requirement highly qualified teachers in a manner that is compatible with their teacher certification, assessment and data collection processes. Education stated that it will provide assistance wherever possible to help states meet the requirement. We generally agree that this is an appropriate approach.

Additionally, Education provided technical comments and we made changes as appropriate.

We are sending copies of this report to appropriate congressional committees, the Secretary of Education, and other interested parties. Copies will be made available to other interested parties upon request. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov. If you have any questions about this report, please call me at (202) 512-7215. Key contributors are listed in appendix V.



Marnie S. Shaul, Director
Education, Workforce, and
Income Security Issues

Appendix I: Scope and Methodology

In conducting our work, we administered a Web survey to the 50 states and the District of Columbia, and a separate Web survey to a nationally representative sample of 830 school districts, that included strata for high-poverty, low-poverty, rural, and urban districts. The response rate for the state survey was 71 percent and for the district survey 62 percent. The surveys were conducted between December 4, 2002, and April 4, 2003. We analyzed the survey data and identified significant results. See figure 5 for a geographic display of responding and nonresponding states.

Figure 5: State Survey Respondents



Source: The 37 states that responded to GAO survey.

The study population for the district survey consisted of public school districts contained in the Department of Education's Core of Common Data (CCD) Local Education Agency (LEA) file for the 2000-2001 school year. From this, we identified a population of 14,503 school districts in the 50 states and the District of Columbia.

Sample Design. The sample design for this survey was a stratified sample of 830 LEAs in the study population. This sample included the 100 largest districts and a stratified sample of the remaining districts with strata defined by community type[1] (city, urban, and rural) and by the district's poverty level.[2] Table 7 summarizes the population, sample sizes, and response rates by stratum.

Table 7: Population and Sample by Stratum

Stratum number	Description	Districts in population	Districts in sample	Districts responding	Response rate
1	Largest 100 districts	100	100	64	64%
2	City, low poverty	648	120	76	63%
3	City, high poverty	210	94	35	37%
4	Urban, low poverty	5,264	135	87	64%
5	Urban, high poverty	648	120	79	66%
6	Rural, low poverty	6,515	135	87	64%
7	Rural, high poverty	1,118	126	83	66%
	Total	**14,503**	**830**	**511**	**62%**

Source: GAO analysis of Education's 2000-1 CCD data

Estimates. All estimates produced from the district sample in this report are for a target population defined as all public school districts in the 50 states and the District of Columbia for the 2002-03 school year. Estimates to this target population were formed by weighting the survey data to account for both the sample design and the response rates for each stratum. For our estimates of high- and low-poverty districts, we defined high-poverty districts as those with participation rates in the free and

[1]"City" is defined as a central city of Consolidated Metropolitan Statistical Area (CMSA) or as a central city of a Metropolitan Statistical Area (MSA). "Urban" refers to Urban Fringe (an incorporated place, Census Designated Place, or nonplace territory within a CMSA or MSA of a city and defined as urban by the Census Bureau), to a large town (an incorporated place or Census Designated Place with a population greater than or equal to 25,000 and located outside a CMSA or MSA), or to an incorporated place or Census Designated Place with a population less than 25,000 and greater than 2,500 located outside a CMSA or MSA. A "rural community" is any incorporated place, Census Designated Place, or nonplace territory designated as rural by the Census Bureau.

[2]Poverty level was not available on the CCD data files; however, as a proxy for poverty, we stratified based on participation in the free/reduced student meals program. For sample selection, high-poverty districts are those districts having at least 60 percent participation in free/reduced meals programs. Less than 60 percent participation in this program identifies a district as a low-poverty district for stratification purposes.

reduced meals program of 70 percent or above. Low-poverty districts were defined as those with free and reduced meals program rates at 30 percent and below. One of the advantages of this approach was that it allowed for a sufficient number of cases in each category to conduct statistical analyses.

Sampling Error. Because we surveyed a sample of school districts, our results are estimates of a population of school districts and thus are subject to sampling errors that are associated with samples of this size and type. Our confidence in the precision of the results from this sample is expressed in 95 percent confidence intervals. The 95 percent confidence intervals are expected to include the actual results for 95 percent of the samples of this type. We calculated confidence intervals for our study results using methods that are appropriate for a stratified, probability sample. For the percentages presented in this report, we are 95 percent confident that the results we would have obtained if we had studied the entire study population are within plus or minus 10 percentage points of our results, unless otherwise noted. For example, we estimate that 34 percent of the districts target at least some funds to specific types of schools. The 95 percent confidence interval for this estimate would be no wider than plus or minus 10 percent, or from 24 percent to 44 percent.

Nonsampling Error. In addition to these sampling errors, the practical difficulties in conducting surveys of this type may introduce other types of errors, commonly referred to as nonsampling errors. For example, questions may be misinterpreted, the respondents' answers may differ from those of districts that did not respond, or errors could be made in keying questionnaire data. We took several steps to reduce these errors.

To minimize some of these errors, the state and district questionnaires were each pretested three times to ensure that respondents would understand the questions and that answers could be provided. To increase the response rate, sampled districts received two calls encouraging them to complete and return the questionnaire.

We also performed an analysis to determine whether some sample-based estimates compared favorably with known population values.[3] We performed this analysis for 12 estimates providing information on

[3]This was possible because the CCD population file contains certain data elements for the universe of districts from which we drew our sample.

students, teachers, number of schools, and administrators that covered major segments those groups. For example, we did an analysis on all full-time equivalent classroom teachers but not on teachers of ungraded students, which is a very small proportion of all teachers. We used these values for the 511 sample respondents to produce sample estimates to the total population of all 14,503 districts. These estimated values, their associated 95 percent confidence intervals, and their true population values are presented in table 8.

Table 8: Sample Estimates Compared to Population Values

Description of estimate	Mean per district estimated from survey respondents	Lower bound of 95 percent confidence interval	Upper bound of 95 percent confidence interval	Mean per district for population
Students with Individualized Education Programs	455.6	391.8	519.5	424.8
Full-time equivalent classroom teachers	186.0	157.8	214.2	180.8
Students in Pre-Kindergarten to 12th grade	3,306.8	2,851.2	3,762.3	3,168.1
Total diploma recipients	198.5	169	227.9	201.4
Limited English proficient students	268.9	210.5	327.3	340.9
Schools in district	6.7	5.9	7.5	6.2
Local Education Authority administrators	4.2	3.6	4.8	3.7
LEA support staff	11.8	9.8	13.9	10.9
School administrators	10.4	8.9	11.9	9.7
School administrative support staff	17.3	14.6	19.9	16.5
Student support services staff	10.8	9.3	12.2	10.6
Instructional coordinators and supervisors	2.9	2.2	3.6	2.5

Source: GAO analysis of Education's 2000-1 CCD data

Note: LEAs are also known as school districts.

For 11 out of the 12 estimates we examined, the population value falls within the 95 percent confidence interval for the estimate, thus providing some indication that respondents to this survey reflect the 12 characteristics we examined in the population. Although these characteristics were selected because they might be related to other characteristics of district teachers and district administration, we do not know the extent to which the survey respondents would reflect the population characteristics for the specific questions asked on our survey. For example, we are not certain whether districts responding to the survey were further along in the implementation of Title II requirements than the districts that did not respond.

Our sample was not designed to produce geographical area estimates, and we did not explicitly stratify our sample by state or region. However, our sample was selected nationally and all regions are represented in our sample. The following table summarizes sample size and responses for 10 regions.

Table 9: Population and Sample by Region

Region number	State in each region	Districts in population	Districts in sample	Districts responding
1	CT, ME, MA, NH, RI, and VT	1,079	42	25
2	NY and NJ	1,281	49	27
3	DE, DC, MD, PA, VA, and WV	731	41	26
4	AL, FL, GA, KY, MS, NC, SC, and TN	1,049	113	76
5	IL, IN, MI, MN, OH, and WI	3,413	179	111
6	AR, LA, NM, OK, and TX	2,061	144	100
7	IA, KS, MO, and NE	1,744	54	30
8	CO, MT, ND, SD, UT, and WY	1,111	42	32
9	AZ, CA, HI, and NV	1,375	135	62
10	AK, ID, OR, and WA	659	31	22
Total		**14,503**	**830**	**511**

Source:

Note: for this table, we adopted the Department of Education's region definitions as provided at http://www.ed.gov/offices/OIIA/Regions.

On the basis of the national distribution of our sample and on the result of our comparison of a set of survey estimates to known population values from the CCD file, we chose to include the survey results in our report and to produce sample based estimates to the total population of school districts in our study population.

We chose not to report the survey responses to questions asking about the number of highly qualified teachers because other information from the survey and our in-depth discussions with officials during our site visits indicated that the respondents could not accurately answer the question. For example, three of five officials who completed the survey but did not answer this question commented in the survey that they could not answer because they could not count the number of teachers. Additionally, one official who reported that 100 percent of the teachers were highly qualified and another who reported 94 percent, also commented that they were unable to count their teachers. During our site visits we learned that officials did not have know the criteria for some groups of teachers, did not have data systems to allow them to track teachers by class and

therefore, could not accurately determine how many teachers were highly qualified.

Other Methodology

We also visited 8 states with a range of characteristics that might affect their meeting Title II requirement for highly qualified teachers. Those states were California, Connecticut, Illinois, Iowa, Maryland, North Carolina, Delaware, and Wyoming. We visited and interviewed officials in 2 districts in each state, one of which was a high-poverty district, and one school in each district. We interviewed Department of Education officials, and officials and representatives from several professional organizations. We also reviewed the legislation, the regulations, and guidance as well as related reports and other relevant documents. We conducted our work between July 2002 and May 2003 in accordance with generally accepted government auditing standards.

Appendix II: Activities on Which States Can Spend Title II, Part A Funds

Table 10 lists our summaries of the authorized activities on which states can spend Title II funds and shows the five categories we used to group them.

Table 10: Title II, Part A State Activities

Category	Activity
Accountability	1. Developing systems to measure the effectiveness of professional development programs and strategies to document improvements in students' academic achievement.
	2. Ensuring that teachers use challenging state academic content standards, assessments, and student achievement standards to improve their teaching practices and their students' achievement.
Certification	3. Reforming teacher and principal certification.
	4. Reforming tenure and implementing tests for subject matter knowledge.
	5. Promoting license and certification reciprocity agreements with other states for teachers and principals.
	6. Providing programs that establish, expand, or improve alternative routes for state certification, especially for highly qualified individuals in the areas of mathematics and science.
Professional development	7. Conducting programs that provide support to teachers, such as those that provide teacher mentoring and use assessments that are consistent with student academic achievement standards.
	8. Providing professional development for teachers and principals.
	9. Developing or assisting local educational agencies (LEAs) in developing and using, proven innovative strategies for intensive professional development programs that are both cost effective and easily accessible.
	10. Encouraging and supporting the training of teachers and administrators to integrate technology into curricula and instruction, including training to improve their ability to use data to improve their teaching.
	11. Providing assistance to teachers to enable them to meet certification, licensing, or other Title II requirements needed to become highly qualified.
Recruitment and retention	12. Developing or assisting LEAs to develop, merit-based performance systems and strategies that provide pay differentials and bonus pay for teachers in academic subjects in which there is high need.
	13. Developing projects and programs to encourage men to become elementary teachers.
	14. Establishing and operating a statewide clearinghouse and programs for the recruitment, placement, and retention of teachers.
	15. Assisting LEAs and schools in recruiting and retaining highly qualified teachers, including specialists in core subjects.
	16. Developing or assisting LEAs to develop, teacher advancement initiatives that promote professional growth, and emphasize multiple career paths and pay differentiation.
Technical assistance	17. Fulfilling the state agency's responsibility to properly and efficiently carry out the administration of programs, including providing technical assistance to LEAs.
	18. Assisting LEAs to develop and implement professional development programs and school leadership academies for principals and superintendents.

Source: NCLBA Pub.L. No. 107-110, section 2113 (2002).

Appendix III: Activities on Which Districts Can Spend Title II, Part A Funds

Table 11 lists our summaries of the authorized activities on which districts can spend Title II funds and shows the two categories we used to group them.

Table 11: Title II, Part A District Activities

Category	Activity
Professional development	1. Providing professional development activities for teachers and principals that improve their knowledge of their core subjects and effective instructional strategies.
	2. Carrying out professional development activities designed to improve the quality of principals and superintendents .
	3. Carrying out teacher advancement initiatives to promote professional growth and to emphasize multiple career paths and pay differentiation.
	4. Carrying out programs and activities that are designed to improve the quality of teachers, such as professional development programs, merit pay programs, and testing teachers in the subjects they teach.
Recruitment and retention	5. Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals.
	6. Developing and implementing initiatives to retain highly qualified teachers and principals, particularly in schools with a high percentage of low-achieving students; including programs that provide teacher mentoring and incentives.
	7. Carrying out programs and activities related to exemplary teachers.
	8. Developing and implementing initiatives to assist schools in recruiting and hiring teachers, including providing financial incentives, and establishing programs that train and hire special education and other teachers, recruit qualified professionals from other fields, and provide increased opportunities for minorities, individuals with disabilities and others.
	9. Hiring highly qualified teachers in order to reduce class size, particularly in the early grades.

Source: NCLBA Pub.L. No. 107-110, section 2123 (2002).

Appendix IV: Comments from the U.S. Department of Education

UNITED STATES DEPARTMENT OF EDUCATION

THE UNDER SECRETARY

July 3, 2003

Ms. Marnie Shaul
Director
Education, Workforce, and
Income Security Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Shaul:

This is in response to your draft report entitled "No Child Left Behind Act: Complete Guidance and More Information Would Help States Determine How Many Teachers are Highly Qualified" (GAO-03-631). We have carefully reviewed the document and appreciate the opportunity to provide comments.

The U.S. Department of Education recognizes that States, districts, and schools face many implementation issues as they strive to meet the teacher qualification standards created in the *No Child Left Behind Act of 2001*. The law sets forth basic requirements for teachers, but provides States considerable flexibility in such areas as determining what constitutes full State certification and what is a "high objective uniform State standard of evaluation" of teacher competence. We recognize it is important to provide timely and informative guidance, while respecting each State's ability to develop its own systems for implementing the law.

The report recommends that the Secretary provide complete guidance and more information to the States. We have been working with States to provide accurate and timely assistance, recognizing that in these early stages of implementation, issues take time and attention. The Department released, on December 2, 2002, Title I Regulations and, on December 19, 2002, Title II – A Non-Regulatory Guidance. In response to requests for clarification about how the "highly qualified" requirements apply to special education and limited English proficient (LEP) teachers, guidance included in the Appendix of the Title I Final Regulations clarifies that both special education and LEP teachers "who are providing instruction in core academic content areas must meet the highly qualified requirements of ESEA." This guidance further clarifies that "special educators who do not directly instruct students on any core academic subject or who provide only consultation to highly qualified teachers of core academic subjects on behavioral supports and interventions and selecting appropriate accommodations do not need to meet the same "highly qualified" subject-matter competency requirements that apply under NCLB to teachers of core academic subjects."

We continue to work with the Council of Chief State School Officers' INTASC (Interstate New Teachers Assessment and Support Coalition) to discuss teacher quality issues at several national meetings. The Department convened all State Title II Directors to discuss teacher quality issues at a national meeting on June 12, 2003. We are in the process of sending out teacher quality

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support teams, establishing a technical assistance and evaluation support plan, and expanding our guidance on issues that are still outstanding.

Additionally, the Department has funded the new "What Works Clearinghouse" to identify research-based best practices related to, among other things, teacher training and teaching in subject areas. Many States have asked for our help, and we have provided and will continue to provide assistance. We engage in conversations daily assisting States in meeting the highly qualified teacher goals of NCLB.

Demonstration of subject area competency is a key requirement in the highly qualified teacher provisions. Each State has the option within the law to develop a way for veteran teachers to demonstrate that competency. The Department has not issued written guidance on the "high objective uniform State standard of evaluation" (HOUSSE) requirements, but we have provided large-scale technical assistance at various meetings across the country, such as at a recent meeting of the National Association of State Directors of Teacher Education and Certification (NASDTEC). We continue to work with State officials by offering technical assistance on ensuring that a State's HOUSSE system reflects the requirements in the law. Several States have developed draft procedures and have asked the Department for feedback and comments. As we continue to learn more about promising strategies and models for HOUSSE, the Department will actively share these with States.

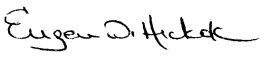
Additionally, the report identifies many issues that are outside of the scope of the federal requirements, and that are matters of State and local policy. A Federal "one size fits all" approach would be undesirable and counterproductive, as States and districts strive to meet the requirements of the statute in a manner that meshes with the teacher certification, teacher assessment, and data collection systems of each individual State. The Department will continue to provide technical assistance wherever possible, in order to assist States in the development of their plans.

There are significant resources available to States to meet the "highly qualified teacher" requirements. However, the report identifies only the amount of Title II-A funds that districts and States may use to help teachers become highly qualified. The report should instead note that, under NCLB, districts must use between five and ten percent of their Title I-A funding for this purpose, and that they also have available Title V and other Title I-A funds. Without that inclusion, the report significantly understates the Federal investment available to help districts and schools meet the requirements.

The No Child Left Behind Act also provides LEAs with flexibility to consolidate certain Federal funds to carry out activities, including programs that improve teacher quality, that best meet their own needs. For example, under the State and Local Transferability Act, an LEA not identified as being in need of improvement or corrective action under Title I may transfer up to 50 percent of its formula allocation under the Improving Teacher Quality State Grants, Educational Technology State Grants, State Grants for Innovative Programs, and Safe and Drug-Free Schools State Grants programs to its allocation under: (1) any of the other authorized programs; or (2) Part A of Title I.

We encourage States to act boldly as they develop plans to meet the requirements of the law. Highly qualified teachers are vital to student achievement and realizing the promise and potential of NCLB. The law recognizes this fundamental principal, and the Department of Education does as well. We look forward to continuing our work assisting States in implementing these important goals.

Sincerely,



Eugene W. Hickok

Appendix V: GAO Contacts and Staff Acknowledgments

GAO Contacts

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In addition to those named above, the following individuals made important contributions to this report: Susan Higgins, Anjali Tekchandani, David Garten, Joel Grossman, Richard Kelley, Mark Ramage, Minnette Richardson, Susan Bernstein, and Jeff Edmondson.

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August 2003

DISASTER ASSISTANCE: Information on FEMA's Post 9/11 Public Assistance to the New York City Area

United States General Accounting Office

GAO

Report to the Committee on Environment and Public Works, U.S. Senate

August 2003

DISASTER ASSISTANCE

Information on FEMA's Post 9/11 Public Assistance to the New York City Area



GAO-03-926

August 2003

DISASTER ASSISTANCE

Information on FEMA's Post 9/11 Public Assistance to the New York City Area

GAO Highlights

Highlights of GAO-03 -926, a report to the Committee on Environment and Public Works, U.S. Senate

Why GAO Did This Study

The terrorist attacks on New York City created the most costly disaster in U.S. history. In response, the President pledged at least $20 billion in aid to the city. Approximately $7.4 billion of this aid is being provided through the Federal Emergency Management Agency's (FEMA) public assistance program, which provides grants to state and local governments to respond to and recover from disasters. The Senate Committee on the Environment and Public Works requested that GAO determine (1) what activities FEMA supported in the New York City area through its public assistance program after the terrorist attacks; (2) how the federal government's response to this terrorist event differed from FEMA's traditional approach to providing public assistance in past disasters; and (3) what implications FEMA's public assistance approach in the New York City area may have on the delivery of public assistance should other major terrorist attacks occur in the future.

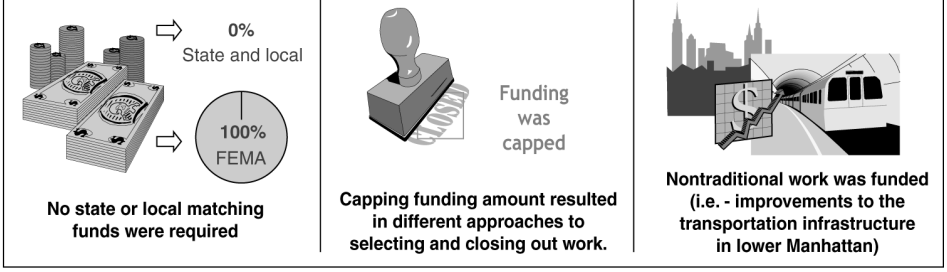
What GAO Found

FEMA has supported many activities through its $7.4 billion in public assistance-related funding to the New York City area. Activities funded include grants to state and local governments for emergency response, such as debris removal, and permanent work, such as the repair of disaster-damaged public facilities. FEMA also provided public assistance-related funding specifically directed by Congress that would not otherwise have been eligible for assistance (e.g. reimbursing costs of instructional time for students who lost school time after the terrorist attacks). The major uses for this funding are as follows:

- $1.7 billion for debris removal operations and insurance.
- $2.8 billion to repair and upgrade the transportation infrastructure of Lower Manhattan.
- $0.6 billion to the New York City Police and Fire Departments for such purposes as emergency efforts and replacing destroyed vehicles.
- $0.3 billion to miscellaneous city agencies for a wide range of activities (e.g., instructional time for students and building cleaning).
- $0.7 billion for non-New York City agencies for many purposes (e.g. office relocations and repair of damaged buildings).
- $1.2 billion available on June 30, 2003, for public assistance-related reimbursements to New York City and state (work to be decided).

The provision of public assistance to the New York City area differed in three significant ways from FEMA's traditional approach.

Differences in This Public Assistance Approach



Source: NOVA Development Corporation and GAO.

FEMA and New York City officials agreed that FEMA's public assistance approach in the New York City area creates uncertainties regarding the delivery of public assistance in the event of another major terrorist event. They differed on the effectiveness of using the public assistance program as currently authorized as the vehicle for federal disaster response to a future major terrorist event. Key New York City officials said that the program needed major revisions, while FEMA officials said it worked well along with the congressional prerogative to provide additional assistance. Nevertheless, FEMA has begun to consider ways to redesign the program to make it better able to address all types and sizes of disasters, including terrorist attacks.

www.gao.gov/cgi-bin/getrpt?GAO-03-926.

To view the full product, including the scope and methodology, click on the link above. For more information, contact JayEtta Z. Hecker at (202) 512-2834 or heckerj@gao.gov.

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Abbreviations

DHS	Department of Homeland Security
DOT	Department of Transportation
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FTA	Federal Transit Agency
NEMIS	National Emergency Management Information System
NYC	New York City
OMB	Office of Management and Budget
PATH	Port Authority of New York and New Jersey

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United States General Accounting Office
Washington, DC 20548

August 29, 2003

The Honorable James M. Inhofe
Chairman
The Honorable James M. Jeffords
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable George V. Voinovich
The Honorable Hillary Rodham Clinton
United States Senate

The September 11, 2001, terrorist acts were the most destructive and costly terrorist events—in terms of lives lost, physical damage, emotional trauma, and economic hardship—that this country has ever experienced. In New York City (NYC), the attacks killed almost 3,000 people, injured thousands more, and leveled 16 acres of Lower Manhattan, including the World Trade Center Towers and other buildings on or around the World Trade Center site. The attacks also disabled major electrical and communications facilities and the transportation infrastructure in the Lower Manhattan area and left many residents temporarily homeless and thousands unemployed.

To help NYC respond to and recover physically, emotionally, and economically from the damages it incurred, the President pledged and Congress appropriated over $20 billion in federal assistance. Today, less than 2 years after the terrorist attacks, the rubble that was the World Trade Center is gone and rebuilding efforts have started. The Federal Emergency Management Agency (FEMA) led the federal response.[1] Total FEMA funding for several programs it administered to help NYC area accounts for about $8.8 billion of the $20 billion in federal assistance, making this the largest disaster response in the agency's history. In only

[1]In March 2003, FEMA and its approximately 2,500 staff became part of the Department of Homeland Security (DHS). Most of FEMA—including its disaster assistance efforts—is now part of the Department's Emergency Preparedness and Response Directorate; however, it has retained its name and individual identity within the department. We therefore refer to FEMA in this report.

six other disasters had FEMA provided more than $1 billion in assistance, the largest of them being the Northridge earthquake in California in 1994.[2]

FEMA's public assistance program was the largest federal disaster effort to the NYC area, totaling $7.4 billion.[3] This program is designed to provide federal disaster grants to eligible state and local government agencies and specific types of private nonprofit organizations. It funds eligible "emergency work," such as responses by local emergency personnel and debris removal, and "permanent work," such as the repair, replacement, or restoration of disaster-damaged facilities, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act.[4] FEMA is expected to provide about $7.4 billion to the NYC area through the public assistance program and public assistance-related spending directed by Congress, making FEMA's public assistance funding the largest single federal disaster aid effort to the NYC area.[5]

You asked us to review several aspects of the federal government's response and recovery efforts. Since FEMA's public assistance program was the largest federal assistance program to help the New York City area, we agreed to identify what activities were funded and the possible implications of this public assistance response to any major terrorist events that may occur in the future. Specifically, we agreed to provide information on (1) what activities FEMA supported in the NYC area with its public assistance program after the terrorist attacks, (2) how the

[2]The six other disasters for which FEMA spent more than $1 billion were caused by earthquakes, hurricanes, or floods. These six disasters are: $6.99 billion for the Northridge Earthquake, Calif. (1994); $2.25 billion for Hurricane Georges, Ala., Fla., La., Miss., P.R., V.I. (1998); $1.84 billion for Hurricane Andrew, Fla., La. (1992); $1.13 billion for Hurricane Hugo, N.C., S.C., P.R., V.I. (1989); $1.14 billion for Midwest Floods, 9 Midwestern states (1993); and $1.08 billion for Hurricane Floyd, 13 Eastern Seaboard states (1999).

[3]The term "public assistance" is also used for unrelated government programs administered by other agencies. For example, in the Department of Health and Human Services, public assistance refers to benefits for low-income individuals. For this report, public assistance refers to the FEMA program.

[4]Pub. L. No. 93-288, 88 Stat. 143 (1974), as amended. The Stafford Act authorized the public assistance program that gives FEMA authority to provide assistance, defines basic program criteria and eligibility, and authorizes FEMA to publish regulations.

[5]In the Consolidated Appropriations Resolution for fiscal year 2003, Congress authorized the state and NYC to use funds appropriated to FEMA for disaster relief for costs associated with the World Trade Center attacks that are not reimbursable under the Stafford Act. We refer to these funds as public assistance-related because they are used for projects in the public domain that are not related to hazard mitigation.

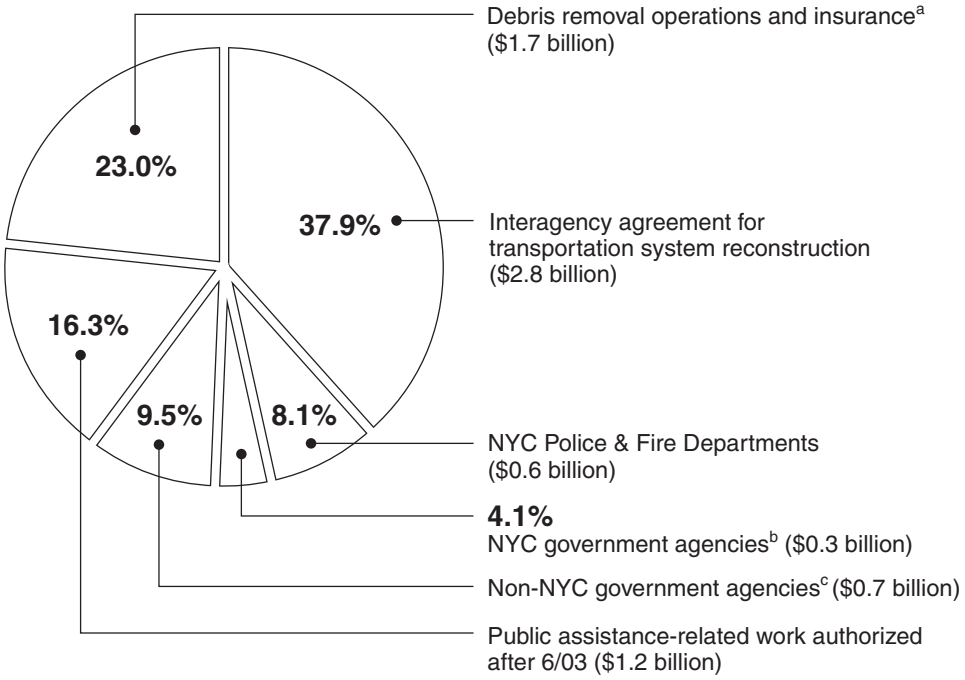
federal government's response to this terrorist event differed from FEMA's traditional approach to funding public assistance in past disasters, and (3) what implications FEMA's public assistance approach in the NYC area may have on the delivery of public assistance should other major terrorist attacks occur in the future. We also agreed to provide a separate report on the overall federal disaster assistance given to help the NYC respond to and recover from the terrorist attacks. That report will be provided to you later this year.

To address our objectives, we reviewed disaster-related project documentation, and we analyzed management information system data on the public assistance FEMA provided and its cost. We reviewed approaches FEMA traditionally used to fund major natural disasters and the staffing and coordination processes it used to deliver the assistance and compared them to approaches used in the aftermath of the World Trade Center attacks. Using a structured data collection and interview instrument, we reviewed decisions FEMA made on funding applications for 10 projects that were nontraditional when compared to the types of work funded in the aftermath of previous major natural disasters. We also interviewed FEMA, NYC, and nonprofit organization officials about the assistance provided and the challenges FEMA faced in delivering public assistance. We asked these officials their views on whether differences in the approach to delivery of public assistance in the NYC area demonstrated a need for a new approach to providing public assistance should another major terrorist event occur in the future. Our scope and methodology are discussed in greater detail in appendix I.

Results in Brief

FEMA supported a wide range of activities for the NYC area with its public assistance program. The approximately $7.4 billion in funding was distributed to major categories of recipients. (See fig. 1.)

Figure 1: Distribution of $7.4 Billion in Public Assistance and Public Assistance-Related Funding



Source: GAO analysis of FEMA data.

Note: $0.08 million in grant administration costs are not reflected in the graph but are part of the total public assistance-related spending. Percentages do not total 100 percent because these costs are not included and due to rounding.

[a] Includes the NYC Departments of Sanitation and Design and Construction, and the U.S. Army Corps of Engineers.

[b] Excludes the NYC Departments of Police, Fire, Sanitation, and Design and Construction. Reimbursements to these four departments are shown under Debris Removal Operations & Insurance and NYC Police and Fire Departments.

[c] Includes New York state agencies, nonprofit organizations, and the Port Authority of New York and New Jersey.

Debris removal operations (costing about $0.7 billion) involved removing, screening, and disposing of 1.6 million tons of debris. The establishment of an insurance company to cover possible claims resulting from debris removal operations is projected to cost about $1 billion. The largest

individual amount of FEMA's public assistance funds—$2.8 billion or 38 percent—will be used jointly with additional funds from the U.S. Department of Transportation to repair and upgrade the transportation infrastructure—including streets, subway systems, and commuter railways—damaged in the disaster. Reimbursements for NYC Police and Fire Departments' emergency efforts, pensions, and vehicle and equipment losses amounted to $0.6 billion. The $0.3 billion in reimbursements to NYC agencies other than the Departments of Design and Construction, Sanitation, Police and Fire were for various activities such as exterior building cleaning, rescheduling elections, and DNA testing to identify victims. Another $0.7 billion provided to non-NYC government agencies—such as New York state agencies, nonprofit organizations, and the Port Authority of New York and New Jersey—was to reimburse these agencies for, among other things, relocating offices and supporting some transportation projects that were not covered in transportation efforts listed above. Lastly, $1.2 billion was made available in June 2003 as a result of FEMA's early close out of its traditional public assistance program to NYC and state for congressionally authorized costs associated with the terrorist attacks. Most of these costs would not have been eligible for reimbursement under FEMA's traditional public assistance program. To receive the $1.2 billion reimbursement for public assistance-related costs, FEMA officials reported that NYC and state officials must prepare traditional grant applications to document that disaster-related costs have been incurred, however Congress authorized a much wider scope of costs that could be reimbursed than are authorized under the Stafford Act. As we concluded our review, the list of projects to be funded had not been determined, but NYC and state had requested reimbursements for heightened security in the aftermath of the terrorist attacks and cost-of-living adjustments to pensions of the survivors of fire fighters and police officers killed in the line of duty in the terrorist attacks. A reimbursement had been made for a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks.

While FEMA followed traditional processes for considering most applications, public assistance provided to the NYC area after the terrorist attacks differed significantly in three major ways from FEMA's traditional approach. First, FEMA did not require state or local governments to provide a share of federally provided disaster response and recovery costs. Typically, FEMA's public assistance program shares disaster costs burdens, with FEMA providing 75 percent of the costs—the minimum provided for under the Stafford Act—and affected state and local governments paying the remaining share. At the direction of the President,

FEMA provided 100 percent of all public assistance costs in the NYC area. This was the first time an entire FEMA public assistance operation was 100 percent federally funded. The second distinct aspect of FEMA's public assistance to New York was that there was a funding target that became a cap on the level of the assistance. As a result, the public assistance program did not follow customary project selection and close out processes. Consistent with the President's and Congress' commitment of approximately $20 billion in disaster assistance to New York, FEMA operated with a set spending level appropriated by Congress that it did not exceed for all public assistance-related work for the NYC area. In contrast, in prior disasters all applications for public assistance that FEMA determined to be eligible under the provisions of the Stafford Act were funded. Also, FEMA closed out public assistance funding for the World Trade Center disaster in June 2003, releasing money that had not been spent to NYC and state officials to use at their discretion for disaster-related expenditures. A FEMA official said that no prior disaster had been closed out in this manner before work had been completed. Third, the size and type of work funded was quite different from the public assistance provided after prior major natural disasters. FEMA determined some non-traditional work was eligible for its public assistance program using flexible interpretations of the Stafford Act. For example, public assistance has traditionally been limited to coverage of disaster-related losses and damages—restoring, but not improving, existing infrastructure. However, FEMA officials said that they broadly interpreted the Stafford Act to allow funding that will not only to rebuild transportation systems that were damaged from the terrorist attacks, but may also improve the overall transportation system in Lower Manhattan. For example, within the FEMA/Department of Transportation interagency agreement, work has been proposed to construct a new transit station to replace the existing but undamaged Fulton Street station to improve the overall flow of commuter traffic. Congress also authorized FEMA to fund other disaster-related work, some of which would not have been eligible for assistance under the Stafford Act. As a result of the June 2003 close out of the public assistance program, $1.2 billion in funds that had not been spent for traditional public assistance work was made available to the city and state of New York for broader purposes authorized by Congress. For example, NYC plans to use FEMA funds to cover some of the costs of heightened security after the attacks.

These distinct aspects of FEMA's public assistance response in the NYC area compared to public assistance responses delivered after previous major disasters create uncertainties about the delivery of public assistance should there be another catastrophic terrorist attack in the future. FEMA

and NYC officials who managed the disaster recovery efforts agreed that the decisions made in New York would likely be considered if terrorists struck again, and that it is uncertain whether an approach similar to the one that evolved in NYC would be followed. Furthermore, NYC and FEMA officials differed on how well the public assistance program, as authorized by the Stafford Act, serves as the federal government's vehicle for delivering this type of assistance. The NYC officials we interviewed did not think that the current program fully addressed the needs of the city. They said it should not be used to respond to major terrorist events unless it is significantly amended to address what they believe are unique challenges in aligning disaster assistance with the consequences of a terrorist incident; these concerns include long-term environmental liabilities and the need for heightened security efforts in the immediate aftermath of a terrorist attack. In contrast, FEMA officials said that they were generally satisfied that the Stafford Act provides the necessary flexibility for responding to terrorist attacks since Congress may authorize additional assistance to disaster-affected areas to address specific and unique needs, as it did for the NYC area. As we were completing our audit work, FEMA established a working group to look at ways to redesign the public assistance program to meet community needs for all types and sizes of disasters in the future, including those resulting from terrorist events. This group expects to provide an initial concept for revising the program by September 30, 2003.

In commenting on a draft of this report, the Acting Director of FEMA's Recovery Division said that FEMA officials are proud of the agency's response in delivering public assistance programs to NYC and state, and that they are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York. FEMA's comments are reprinted in appendix II. FEMA also provided technical comments on our draft, which we incorporated into the report where appropriate.

Background

Under the Stafford Act, when a major natural catastrophe, fire, flood, or explosion occurs that is beyond the capabilities of a state and local government response, the President may declare that a major disaster exists. This declaration activates the federal response plan for the delivery of federal disaster assistance. The response plan is an agreement signed by 27 federal departments and agencies, including the American Red Cross. Under the Stafford Act, FEMA is responsible for coordinating both the federal and private response efforts. President Jimmy Carter established FEMA in 1978 to consolidate and coordinate emergency management

functions in one location, addressing concerns about the lack of a coordinated federal approach to disaster relief. FEMA most recently redesigned its public assistance program in 1998. The federal assistance coordinated by FEMA is designed to supplement the efforts and available resources of state and local governments and voluntary relief organizations.[6]

While FEMA had the lead in coordinating the federal response to the attacks on NYC, other federal agencies, including the Department of Transportation (DOT), the Small Business Administration (SBA), the U.S. Army Corps of Engineers, and the Environmental Protection Agency (EPA) also provided significant assistance. The disaster declaration from the President triggers not only a role for FEMA as coordinator of the federal emergency response plan, but also a role in delivering assistance through several programs it administers. These programs include individual assistance to victims affected by a disaster and hazard mitigation funds to state and local governments to take steps to prevent future disasters. However, FEMA's public assistance program is typically its largest disaster assistance effort. It is designed to provide grants to eligible state and local government agencies and specific types of private nonprofit organizations that provide services of a governmental nature, such as utilities, fire departments, emergency and medical facilities, and educational institutions, to help cover costs of emergency response efforts and work associated with recovering from the disaster. According to FEMA regulations, work eligible for public assistance must be

- to repair damage that occurred as a result of a declared event,
- located within an area declared by the President as a disaster area, and
- the legal responsibility of an eligible applicant.

The Stafford Act sets the federal share for the public assistance program at no less than 75 percent of eligible costs of a disaster with state and local governments paying for the remaining portion. The assistance is to be provided to repair, restore, reconstruct, or replace eligible facilities. The

[6]In a December 2002 report, we discussed charitable organizations' contribution to the disaster relief efforts in the NYC area and the need for a greater FEMA role in facilitating collaboration among these organizations. U.S. General Accounting Office, *September 11: More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters*, GAO-03-259 (Washington, D.C.: Dec. 19, 2002).

amount of public assistance provided is reduced by, among other considerations, insurance proceeds and salvage value. Because the assistance provided by the program is limited by these factors, as well as certain eligibility criteria, the amount of public assistance funds FEMA provides in a disaster does not equal the total financial impact of a disaster on an affected community or area.

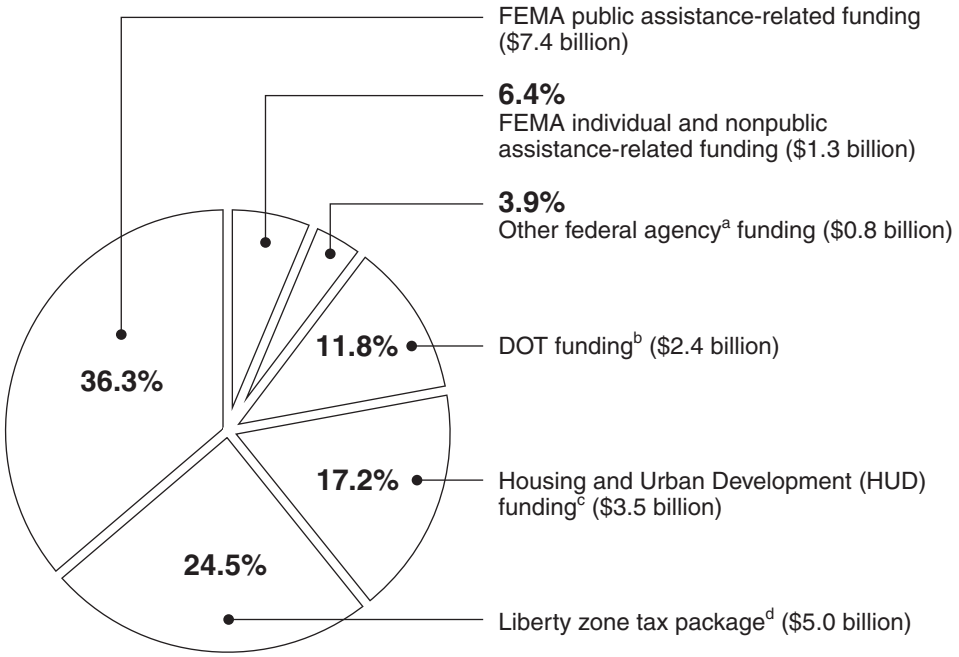
The Stafford Act has been amended several times since its enactment in 1974, and FEMA has taken steps over the years to redesign its public assistance program with internal policy changes to make eligibility criteria for public assistance clearer, and more consistent and accurate. The Senate report on the Disaster Mitigation Act of 1999 noted that the congressional interest in reducing the federal cost of disaster assistance would be achieved by, among other things, reducing the types of facilities and activities that may receive assistance in the event of a disaster.[7] In August 2001, we reported that in a period of about 2 years since FEMA had completed a 1998 redesign of the public assistance program, it had developed or revised public assistance program policies in 35 areas or topics in part to make clearer eligibility criteria and improve the consistency and accuracy of eligibility determinations for individual projects.[8]

FEMA's public assistance program is the largest portion of the federal assistance provided to New York in the aftermath of the World Trade Center attacks. Of a total of over $20 billion in federal assistance approved for this disaster, either in the form of direct assistance or in the form of tax benefits, about $7.4 billion was funded through FEMA's public assistance program or through public assistance-related spending authorized by Congress through appropriations to FEMA. Figure 2 shows that FEMA's public assistance program is providing the largest single portion of the federal contribution to the NYC area's disaster recovery effort.

[7] Senate Report 106-295.

[8] U.S. General Accounting Office, *Disaster Assistance: Improvement Needed in Disaster Declaration Criteria and Eligibility Assurance Procedures*, GAO-01-837 (Washington, D.C.: Aug. 31, 2001).

Figure 2: Public Assistance Funding Provides the Largest Federal Contribution to the NYC Area's Recovery



Source: GAO analysis of FEMA and Congressional Budget Office data.

Note: Percentages do not total 100 percent due to rounding.

[a] Includes the Department of Health and Human Services, Department of Labor, and SBA.

[b] DOT funds are to assist in rebuilding and improving the transportation infrastructure.

[c] HUD funds are to be used for a variety of purposes, including assistance to businesses and individuals, infrastructure restoration, and economic recovery.

[d] Estimate by the Joint Congressional Committee on Taxation in March 2002 of the cost of the Liberty Zone tax package to the federal government. The cost of the tax package in lost revenues to the federal government will not be precisely determined because data is not available. The package contains provisions designed to spur economic revitalization in Lower Manhattan.

FEMA may assign work or enter into agreements with other federal agencies and the American Red Cross to handle aspects of public assistance within their areas of expertise. These agreements are called mission assignments and interagency agreements. Mission assignments were widely used in the first few months after the World Trade Center disaster to provide assistance for short-term projects. Interagency agreements—used for long-term projects—are similar to mission assignments in that they are funding agreements between agencies to provide goods and services on a reimbursable basis.

In March 2003, FEMA and its responsibilities were placed entirely into DHS in the largest reorganization of the federal government since the formation of the Department of Defense. The Emergency Preparedness and Response Directorate within DHS has responsibility for the public assistance program and continues to be referred to as FEMA, which we do in this report.[9]

$7.4 Billion in Public Assistance-Related Funding Provided for Broad Range of Activities

The approximately $7.4 billion of public assistance and public assistance-related work funded through FEMA is providing a broad range of aid to the NYC area. For example, public assistance-related funding was, or will be, provided to reimburse NYC authorities for immediate response and recovery actions—such as debris removal operations and emergency efforts by the NYC Departments of Design and Construction, Sanitation, Fire, and Police—and for long-term actions to repair and upgrade damaged facilities and transportation systems. Because of the unique nature of the NYC disaster, existing FEMA data system categories for tracking and reporting public assistance do not provide for some of the large public assistance-related efforts.[10] Based on our analysis, we categorize the public assistance and related funding for NYC into six general areas:

[9]FEMA's Office of National Preparedness, which is responsible for terrorism preparedness and response, was placed in the Border and Transportation Security Directorate. This placement was designed to achieve a measure of consolidation with preparedness functions from other agencies. However, as we reported in our Performance and Accountability Series in January, 2003, other disaster preparedness and response efforts will be in the Emergency Preparedness and Response Directorate and close coordination will be needed among these groups to ensure that problems of duplication, overlap, and confusion that occurred in the past are not replicated. U.S. General Accounting Office, *Major Management Challenges and Program Risks: Federal Emergency Management Agency*, GAO-03-113 (Washington, D.C.: January 2003).

[10]FEMA's categories for public assistance work are (1) debris removal, (2) emergency protective measures, (3) road and bridge systems, (4) water control facilities, (5) public buildings and equipment, (6) public utilities, and (7) recreation and other. However, some large public assistance efforts funded in NYC did not fit well within the standard categories. For example, a $64.6 million application to cover increased NYC contributions to the retirement system due to the line-of-duty deaths of police and fire fighters in the terrorist attacks was classified as an emergency protective measure, and a FEMA official noted that the "recreation and other" category was used to classify reimbursements that did not fit in other categories. For example, funding to provide additional school time for students who lost instructional time as a result of the terrorist attacks was classified as "recreational or other." For this reason, we did not use the FEMA categories for our analysis.

- debris removal operations and insurance;
- reconstruction of the Lower Manhattan transportation infrastructure under an interagency agreement with DOT;
- reimbursement of police and fire department costs;
- reimbursement of expenses incurred by NYC agencies other than the Departments of Design and Construction, Sanitation, Police and Fire for such activities as DNA and forensic testing to identify victims and exterior building cleaning;
- reimbursement of expenses to agencies that are not part of the NYC government (i.e., New York state agencies, the Port Authority, and private non profits) for disaster-related costs such as transportation work not covered under the interagency agreement discussed above; and
- reimbursement of public assistance-related expenses authorized by Congress that would not otherwise have been eligible for assistance (i.e. heightened security after the terrorist attacks) from funds made available after the June 30, 2003, close out of the traditional public assistance program.

Refer to figure 1 on page 4 for a graphic illustration of how public assistance funding to the NYC area was or will be distributed within these six categories.

Each category of public assistance funding and some of the major efforts funded in each of them, are described in the following sections.

Debris Removal Operations and Insurance

FEMA funded about $1.7 billion in work related to debris removal operations and to reimburse the NYC Departments of Design and Construction and Sanitation for debris removal expenses. The most significant and costly activities in this category were removing and disposing of the destroyed World Trade Center buildings, screening debris for victims' remains and personal effects, and establishing an insurance company for possible claims resulting from debris removal operations.

Workers spent an estimated 3.1 million hours over 9 months to remove about 1.6 million tons of debris from the World Trade Center site. Debris from the collapse of the World Trade Center towers extended 7 stories into the earth and more than 11 stories high at Ground Zero. Thick dust

covered streets, buildings, and vehicles for blocks around the site. FEMA provided $620.9 million for removing the debris from the World Trade Center site and barging it to a landfill in Staten Island, N.Y., for screening, sorting, and disposal. Original estimates projected that the recovery effort and cleanup would take 2 years and $7 billion. Figure 3 shows debris removal and barging operations.

Figure 3: Public Assistance-Funded Debris Removal Operations



Source: FEMA Photo Library.

Debris removal contractors survey the piles of debris, estimated at 1.6 million tons, at the site where the World Trade Center towers once stood.



Source: FEMA Photo Library.

FEMA-funded debris removal efforts are in progress at the World Trade Center about a month after the terrorist attacks.



Source: FEMA Photo Library.

Two 500-ton floating cranes continue debris removal operations, loading wreckage onto barges to be towed to a city landfill in Staten Island, N.Y., for screening, inspection, and disposal.

The need to sort and screen the debris to recover the remains and personal effects of victims and criminal evidence made the debris removal operation even more difficult. FEMA provided $72 million to the U.S. Army

Corps of Engineers to manage the debris inspection at the landfill. The sorting activities were an intense, meticulous effort to recover remains and personal belongings of victims to return them to their families and to gather criminal evidence related to the terrorist attacks. The Corps of Engineers provided labor, heavy equipment, conveyer belts, and screening equipment. The Corps also provided temporary buildings for storage and to shelter workers, worker decontamination facilities, and food service facilities. Figure 4 shows debris screening and inspection operations at the landfill.

Figure 4: Debris Screening and Inspection Operations



Source: FEMA News Photo.



Source: U.S. Army Corps of Engineers.

Two views of inspectors at work at the city landfill in Staten Island, N.Y., screening through mixed debris for victims' remains and personal effects and criminal evidence.

In addition to the costs of debris removal and disposal, FEMA set aside $1 billion to establish a debris removal insurance company to cover contractors and NYC for liability claims resulting from debris removal operations.[11] According to city officials, private contractors came to Ground Zero to do search and rescue, recovery, and debris removal work

[11]FEMA was authorized to do so by the Consolidated Appropriations Resolution of 2003, Pub. L. No. 108-7. $1 billion is a projected cost, but actual costs will be unknown for many years.

in the immediate aftermath of the terrorist attacks before entering into formal contract agreements with NYC. The outstanding issue that kept the contractors and NYC from reaching a final agreement on compensation for the work done was liability insurance coverage. City officials said that liability insurance could not be obtained from a private insurance company because of the unknown risks and potentially large number of liability claims. Based on input from insurance experts, city officials and FEMA determined that the best solution was to establish an insurance company with $1 billion in federal capital to provide $1 billion in coverage for a payout period of up to 25 years. The insurance fund will cover NYC workers and contractor employees. As of June 2003, the details of the insurance coverage had not been finalized. Additional perspectives on how aspects of FEMA's establishment of the insurance fund differed from a traditional public assistance activity can be found on page 30 of this report.

Interagency Agreement for Lower Manhattan Transportation System Reconstruction

FEMA provided $2.8 billion to help fund an interagency agreement with the DOT to reconstruct the Lower Manhattan transportation system. The terrorist attack at the World Trade Center severely damaged the intermodal public transportation system that was used by about 80 percent of the 350,000 daily commuters to Lower Manhattan—the highest percentage of people commuting to work by public transit of any commercial district in the nation. The Port Authority of New York and New Jersey (Port Authority) commuter station underneath the World Trade Center was destroyed, and subway stations servicing the area were sufficiently damaged to prevent trains from stopping at them. In addition, some tunnels were temporarily closed, preventing commuter buses from entering Lower Manhattan. Access to and mobility within Lower Manhattan was severely diminished. Many streets were closed due to debris from the collapsed buildings and the subsequent debris removal operations. Large rescue vehicles and heavy debris removal equipment also damaged the area streets, making them more difficult to navigate.

Plans are underway to rebuild and improve the Lower Manhattan transportation system with funding from FEMA and DOT. These agencies, under an interagency agreement, will contribute $4.6 billion to these transportation system projects, with FEMA providing $2.8 billion and DOT providing an additional $1.8 billion. The agreement will result in not only rebuilding a system that was damaged, but also improving the overall Lower Manhattan transportation system. The agreement designated DOT's Federal Transit Administration (FTA) as the lead agency in charge of

administering the federal assistance and coordinating with state and local implementing agencies.

In February 2003, the Governor of New York submitted funding requests to FEMA and DOT for three priority projects estimated to cost between $2.55 billion and $2.85 billion—the World Trade Center Transportation Hub, Fulton Street Transit Center, and South Ferry Subway Station to improve the overall flow of commuter traffic in lower Manhattan. Although the uses for the remaining $1.7 billion to $2.0 billion of the $4.6 billion in FEMA/DOT funds had not been determined as of June 2003, uses for the remaining funds being evaluated included improvements in access to JFK Airport and Long Island, improvements to West Street Route 9A, a tour bus facility, the World Trade Center sub grade infrastructure, and commuter ferries and street configuration work.

Figure 5 shows the extensive damage to the PATH commuter station beneath the World Trade Center Towers after the terrorist attacks and a model of the permanent station planned to be constructed in its place with FEMA/DOT interagency agreement funds.

Figure 5: Interagency Agreement Will Fund Construction of a Permanent New Station to Replace the Extensively Damaged PATH Station Beneath the World Trade Center Towers



Source: FEMA News Photo.

The PATH train station beneath the World Trade Center Towers was severely damaged in the attacks. A new permanent station will be constructed within the FEMA/DOT interagency agreement.



Source: Port Authority of N.Y. and N.J.

A model of the permanent station to be designed and constructed within the FEMA/DOT interagency agreement in place of the damaged facility.

FEMA is also funding transportation-related work for the Port Authority outside of the scope of this interagency agreement. This work is discussed on page 21 of this report. We provide additional perspective on how aspects of this interagency agreement differ from FEMA's traditional public assistance response to major disasters on page 28 of this report.

NYC Police and Fire Department Reimbursements

FEMA provided about $643 million in assistance to the NYC Police and Fire Departments to pay benefits and wages to emergency workers during response and recovery efforts and to replace vehicles and equipment. As first responders, these departments suffered heavy casualties and damages in the collapse of the twin towers of the World Trade Center: 343 NYC fire department employees, 23 active city police officers, and 5 retired city police officers died in the line of duty, and 238 emergency vehicles, as well as radios and other equipment were lost or destroyed. In the months after the attack, nearly 100 firefighters per shift worked at the disaster site around the clock standing over contractor-operated steel-ripping machines looking for victims' remains. Similarly, police officers were stationed 24 hours a day, 7 days a week to provide security at the disaster site. Figure 6

includes photographs of police and firefighters during the search and rescue phase of work immediately after the terrorist attacks and 2 of the emergency vehicles that were destroyed in the World Trade Center collapse.

Figure 6: Public Assistance Funded Police and Firefighter Overtime and Replaced Emergency Vehicles That Were Destroyed in the Terrorist Attacks



Source: FEMA News Photo.

Police and firefighters worked around the clock in the search and rescue phase following the terrorist attacks. FEMA public assistance reimbursed for overtime.



Source: New York Fire Department.

Two of the emergency vehicles destroyed when the World Trade Center towers collapsed. FEMA public assistance reimbursed NYC the funds to replace emergency vehicles and equipment.

Public assistance grants to these two city agencies included $341 million for police overtime and death benefits and $223 million for firefighter overtime, death benefits, and funeral costs. Grants also reimbursed emergency service departments $44 million to replace 98 firefighter vehicles, radios, and other equipment; and $26 million to replace 140 police emergency vehicles and emergency equipment that were destroyed in the terrorist attacks.

Reimbursements to Other NYC Government Agencies

Although the NYC Departments of Design and Construction, Sanitation, Fire, and Police were the city agencies that received the largest amounts of FEMA public assistance funding for debris removal and insurance and for emergency response losses and expenses related to the terrorist attacks, FEMA also provided direct public assistance to a number of other NYC agencies for a wide range of work totaling almost $300 million. Projects included:

- $46.7 million to the Office of the Chief Medical Examiner for DNA testing, forensic analysis and equipment to help identify victims of the terrorist attacks;

- $8 million to the Department of Elections to reimburse the expenses it incurred to reschedule elections that were being held on September 11, 2001, and to replace damaged voting equipment;

- $19.3 million to the NYC Department of Education to pay for instructional time for students who missed school due to closures, delayed openings, and school relocations[12]; and

- $8.6 million to the NYC Department of Environmental Protection for exterior building cleaning.

Other examples of funding that went to city agencies are $12.9 million to the NYC Department of Citywide Administrative Services for emergency supplies, equipment and services, and $10.6 million to set up the facilities and provide equipment and furniture for the NYC Family Center and reimburse city and state personnel for overtime at the Family Center who provided services for NYC residents in the aftermath of the terrorist attacks. Figure 7 shows the cloud of dust that covered buildings for blocks around the World Trade Center.

[12]Funding of $77 million was approved for the NYC Board of Education for this purpose. As of April 2003, $19.3 million was. The remaining funds were de-obligated from the project and directed to public assistance related work authorized by Congress after the close out of the traditional assistance program.

Figure 7: NYC Agencies Received Public Assistance Funding for a Range of Work Including Cleaning Dust from Buildings



Source: U.S. Environmental Protection Agency.

Contaminant-filled dust covered buildings in the blocks around the World Trade Center. FEMA reimbursed the NYC Department of Environmental Projection for the exterior cleaning of 244 buildings in Lower Manhattan.

Reimbursements to Non-NYC Government Agencies

FEMA provided over $700 million in public assistance-related funding to agencies that were not part of the NYC government, including the Port Authority, state agencies, counties, and private nonprofit organizations. Among the agencies receiving some of the largest amounts was the Port Authority, which sustained substantial losses of lives and property as a result of the terrorist attacks. The funding for the Port Authority was in addition to the FEMA transportation funding provided in its interagency agreement with DOT to rebuild and improve the Lower Manhattan transportation system, as discussed on page 16.

FEMA reimbursed the Port Authority for a wide range of work including $285.0 million to relocate offices that were located in the World Trade Center, repair commuter train tunnels that were damaged in the terrorist

attacks, implement emergency ferry services, open a temporary PATH station, and pay overtime to the Port Authority police. The damage to the Port Authority's PATH train system was extensive; tunnels leading from the station to New Jersey were flooded and the Exchange Place station in New Jersey had to be closed because the station could not operate as a terminal. All tunnel components (i.e., fiber optics, conduits, pipes, lighting, ductbanks, track, contact rail, and ballast) needed to be replaced. The Port Authority also received public assistance funds to replace equipment it lost when its World Trade Center facilities were destroyed, including its voice telephone network, desktop computers, and fax and photocopy machines, and to pay overtime labor costs for the emergency response. Figure 8 shows PATH tunnel repair and construction efforts.

Figure 8: Port Authority Received Public Assistance Funding to Restore Tunnels That Were Flooded in the Terrorist Attacks



Source: Port Authority of N.Y. and N.J.

Ongoing efforts in June 2002 to restore two 2-mile PATH tunnels under the Hudson River, connecting Lower Manhattan and New Jersey. The tunnels were flooded as a result of the terrorist attacks.



Source: Port Authority of N.Y. and N.J.

As of March 2003, progress shows in one PATH tunnel as the PATH Service Restoration project moves forward to the goal of restoring service to Lower Manhattan in December 2003.

FEMA also provided public assistance funds to many other non-NYC government agencies to reimburse them for emergency and repair costs. For example, the New York State Police received $45 million for security operations, and New York University received $5.9 million for air monitoring, environmental cleaning, and emergency supplies and services. Other examples include the NYC Office of Emergency Management, which

received $11.8 million from FEMA to replace destroyed equipment and leased office space that was located in the World Trade Center; Pace University, which was provided $4.4 million for damaged buildings; and the Battery Park City Authority, which received $3.9 million to repair damaged facilities.

Reimbursements for Public Assistance-Related Work Authorized by Congress

Lastly, $1.2 billion was made available in June 2003 as a result of FEMA's early close out of its traditional public assistance program to NYC and state for congressionally authorized costs associated with the terrorist attacks. Most of these costs would not have been eligible for reimbursement under FEMA's traditional public assistance program. The close out freed funds for discretionary public assistance-related uses by NYC and state and ensured that FEMA would spend the entirety of the appropriated assistance to the NYC area. Funds obligated for all of FEMA's programs, including individual assistance and hazard mitigation, were reconciled, and funds that had not been expended for approved projects as of April 2003 were de-obligated to be used for discretionary public assistance-related expenditures. To receive the $1.2 billion reimbursement for public assistance-related costs, FEMA officials reported that NYC and state officials must prepare traditional grant applications to document that disaster-related costs have been incurred; however, Congress authorized wide discretion on the type of costs that could be reimbursed.

As we concluded our review, the list of projects to be funded had not been determined, but NYC and state had requested reimbursements for heightened security in the aftermath of the terrorist attacks and cost-of-living adjustments to pensions of the survivors of firefighters and police officers killed in the line of duty in the terrorist attacks. A $19 million reimbursement has been made for a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks. We discuss the heightened security reimbursements in more detail on page 32 of this report as an example of funding that was different in scope than a typical public assistance project and that would not have been eligible for FEMA funding unless it was specifically authorized by Congress.

Public Assistance to NYC Differed from the Traditional FEMA Response in Several Areas

Each disaster to which FEMA responds has aspects that make it unique from other disasters, resulting in some differences in forms of assistance provided to affected communities within the parameters of the Stafford Act eligibility requirements, according to the head of FEMA's public assistance program. While FEMA followed traditional processes for considering most applications, the public assistance response in the NYC area after the terrorist attacks differed significantly from the traditional approach FEMA has used in providing assistance under the Stafford Act after major natural disasters. The three significant differences were:

- the elimination of any local sharing of disaster response and recovery costs,
- capped amounts of funding that resulted in significant modifications to the project selection and close out processes, and
- the size and type of projects funded.

Many of these differences are based on presidential and congressional direction; however, some are the result of FEMA's interpretations of the Stafford Act to allow the approval of funding for certain assistance to New York.

No Sharing of Public Assistance Costs by State or Local Governments

The Stafford Act sets the federal share for the public assistance program at no less than 75 percent of eligible costs. The President can increase the federal share for the public assistance program if it is determined that the disaster costs greatly exceed a state's financial capabilities. In practice, the federal share has reached 100 percent for emergency work, for limited periods of time, if determined that it was necessary to prevent further damage, protect human lives, or both. In 1992, for example, after Florida and Louisiana suffered large disaster expenses as a result of Hurricane Andrew, FEMA funded 100 percent of all public assistance costs above $10 per capita.[13] According to a FEMA official, the 1994 Northridge, California earthquake, which cost almost $7.0 billion, was FEMA's most costly disaster funding effort until the World Trade Center attacks occurred; FEMA provided for 90 percent of all public assistance costs. In discussing the question of state and local sharing of public assistance costs, FEMA

[13]Per capita personal income is commonly used in federal grant programs as a basis for sharing program costs between states and the federal government.

officials stated that they are reluctant to recommend a 100 percent federal share for projects unless there are compelling reasons to do so because the traditional process with a matching share creates incentives for state and local officials to control costs and closely evaluate projects.

In the days immediately following the terrorist attacks, the President determined that the magnitude and nature of the disaster justified the federal government funding the total cost of public assistance projects, and he directed that FEMA fund 100 percent of the eligible costs with no state or local matching funds. This increased FEMA's costs and significantly reduced costs to NYC and other recipients. For example, on the transportation repair and improvements efforts, NYC area recipients did not have to make a financial contribution that could have totaled nearly $680 million—25 percent of the $2.75 billion that FEMA is providing.

Although New York received the benefits of 100 percent FEMA funding of public assistance projects, the President reduced the amount of related Hazard Mitigation Grant Program funds provided to New York. Created in 1988 by the Stafford Act, this grant program provides funds to communities affected by major disasters to undertake mitigation measures following a major disaster. At the time of the terrorist attacks, grants funds up to 15 percent of the total amount of FEMA assistance provided are available to states following a disaster.[14] However, in this case, the President limited the mitigation grant funds to 5 percent of the amount spent. Had the hazard mitigation funding percentage not been reduced, more than $1.2 billion in mitigation funds would have been required using the customary 15 percent of total cost criteria.

[14]The Consolidated Appropriations Resolution of 2003, Pub. L. No. 108-7, has since amended the Stafford Act to reduce the amount available for mitigation grant funds to 7.5 percent. However, pursuant to the The Disaster Mitigation Act of 2000, up to 20 percent of the total estimated federal assistance amount is available for states that meet enhanced planning criteria.

Different Processes for Selecting Projects and Closing Out the Disaster Based on Capped Funding Amounts

In a typical major disaster, FEMA's consideration of whether work is eligible for public assistance is not constrained by a limit on the total amount of public assistance funding that can be spent, and disasters remain "open" with FEMA until public assistance work is substantially completed. Generally, FEMA officials approve all public assistance applications that meet eligibility criteria under the Stafford Act, and they fund the work from FEMA's disaster relief fund. Also, according to a FEMA public assistance official, direct congressional appropriations are not typically made for a specific disaster. The official explained that damaged facilities are identified within 60 days following a kick-off meeting to begin federal disaster assistance between FEMA officials and state and local officials of the area impacted by the disaster. Proposed work is then considered for eligibility and funded through "project worksheets"—applications for specific funding amounts to complete discrete work segments. Project worksheets document the scope of work, cost estimates, locations, damage descriptions and dimensions, and special considerations of each work segment. No limit is set on the dollar amount of eligible work that can be approved. As the response and recovery progresses, states reimburse applicants for all costs that meet the Stafford Act's public assistance eligibility criteria and FEMA reimburses the states for the federal share. A public assistance official noted that disasters remain open with FEMA long after public assistance funds have been obligated. For example, as of June 2003, the Northridge, California, earthquake was still an open FEMA disaster 9 years after it occurred due to large and long-term reconstruction efforts. Disasters are "closed" when the project is complete, the final costs are known, and all appeals of funding decisions have been resolved.

Following the terrorist attacks, however, the process of selecting projects that were eligible for funding and closing out the public assistance for the NYC area did not follow FEMA's customary process because FEMA had a set amount of funds available for public assistance efforts. Congress provided FEMA with specific appropriations for the terrorist attacks that resulted in a capped funding amount of $8.8 billion for its efforts to aid the NYC area from the President's pledge of at least $20 billion in federal assistance. In consideration of funding required for its other programs (assistance for individuals impacted by the disaster and hazard mitigation grants), $7.4 billion remained available for public assistance and public assistance-related projects. To help ensure that the amount of public assistance did not exceed this amount, FEMA asked that city and state officials prioritize their funding needs. As a result, about $400 million in funding initially budgeted for the Port Authority was eventually reallocated to other projects. FEMA also delayed a decision on funding for

city and state pension actuarial losses resulting from line of duty deaths of police and fire fighters at the World Trade Center site so that officials could be certain that the costs of the project would not cause FEMA to exceed its total appropriation for the disaster.

A second major difference from how FEMA typically manages a disaster occurred when it established a June 30, 2003, deadline for closing out the regular public assistance program and the disaster before work was completed. According to FEMA officials, they established this deadline for closing out public assistance projects eligible for funding under the Stafford Act so that any remaining funds could be used for work identified as high priorities by city and state officials in New York and authorized by Congress. They said that deadlines for closing out public assistance had not been set in any prior disaster until work was completed, but that they believed it was necessary for the NYC area to manage the available funds to ensure that its priorities are best met as quickly as possible.

Size and Type of Work Was Different Than Work in Other Major Disasters

The response to the NYC terrorist attacks was the largest public assistance effort in FEMA's history and by far its largest response to a terrorist event. Prior to the World Trade Center attacks, FEMA's most costly disaster assistance—almost $7 billion—was provided to aid in the recovery from the Northridge, California, earthquake in 1994. FEMA spent more than $1 billion for five other disasters in its history. Further, FEMA's experience with terrorism was limited to two occasions prior to the World Trade Center attacks. In April 1993, a major disaster was declared in the aftermath of an explosion caused by terrorism at the World Trade Center. FEMA spent about $4.2 million on that disaster recovery. In April 1995, an emergency and then a disaster were declared in Oklahoma City, Oklahoma, in the aftermath of the bombing of the Murrah federal building—FEMA spent about $530 million on that recovery effort.

In its response to terrorism in the NYC area, FEMA provided public assistance funds for the same types of projects that are funded after a natural disaster (e.g., removing debris, repairing roads, and replacing emergency vehicles that were destroyed). However, other work funded was quite different because of the magnitude and nature of the disaster. FEMA officials said that they determined that some non traditional work was eligible for its public assistance program using flexible interpretations of the Stafford Act. Examples of public assistance projects approved by FEMA that we identified as being different from traditional public assistance work due to their size and/or type of work done included

improvements to the Lower Manhattan transportation system and air quality testing. Some of these projects are discussed as follows.

Improving Lower Manhattan's Transportation System ($2.75 billion). Public assistance has traditionally been limited to repair of disaster-related losses and damages to existing infrastructure. Assistance has not generally been provided to enhance or modernize the infrastructure beyond its pre disaster conditions. In recognizing the interdependence of Lower Manhattan's transportation system, however, FEMA officials said that they broadly interpreted their guidelines to enter into an interagency agreement with DOT to rebuild physical facilities that were damaged from the attacks and construct new facilities that may improve the overall Lower Manhattan transportation system. FEMA attorneys said that they determined that the Stafford Act would permit funding for the restructuring of the Lower Manhattan transportation system because they concluded that repairing and replacing individual elements would not completely restore the system's functionality.

Testing air quality and cleaning buildings ($36.9 million). FEMA officials said that air quality testing and removing dust from buildings had not been an issue in prior major disasters, however, it was important to the physical and psychological well being of NYC citizens in the aftermath of this disaster. FEMA determined that the testing of air quality and cleaning were eligible for public assistance funding where the collapse of the World Trade Center buildings, resulting fires, and subsequent debris removal caused potential health issues related to air quality. To meet this need, FEMA entered into interagency agreements with EPA to sample and test air quality in the NYC area, as well as to test ways to clean potentially hazardous dust in building interiors. FEMA also provided funding to the New York Department of Environmental Protection for the exterior cleaning of 244 buildings and the interior cleaning of residences. EPA provided oversight over the interior cleaning program as part of the interagency agreement with FEMA.

Reimbursing costs for rescheduling New York elections ($11 million). According to a FEMA official, this disaster was the first during which elections were being held on the day of a federally declared disaster event. FEMA officials said that they considered whether the costs of canceling the elections statewide and rescheduling them at a later date were eligible for public assistance or were increased operating expenses for the state and local governments that are not considered to be eligible for assistance under the Stafford Act. After initially denying the public assistance application for reimbursement, FEMA officials reconsidered and

determined that the costs were eligible for reimbursement as disaster related expenses. NYC was also reimbursed for costs of damaged and destroyed computers, voting machines, and ballots as Stafford Act eligible public assistance.

Aiding WNET Public Television (covered completely by private insurance) and the Legal Aid Society of New York for Public Assistance ($1.6 million). According to FEMA officials, WNET, a nonprofit television station, requested reimbursement from the public assistance program for expenses for a communications antenna that was damaged in the World Trade Center attacks. The New York Legal Aid Society asked for reimbursement of disaster-related costs including repair of damages to its building and reconstruction of its data hub that was destroyed in the attacks. Although public television stations are not among the specific types of non profit organizations that are normally considered to be eligible applicants for public assistance because they provide essential government services (i.e. educational, medical, water, and sewer treatment facilities), FEMA determined that WNET was eligible as a public facility because it provided health and safety information to the general public during the crisis. Later, WNET received full coverage for its claims from a private insurance company, so FEMA funds were not awarded. Similarly, FEMA officials said that although legal aid societies are not generally eligible for public assistance, the Legal Aid Society of New York was eligible because it provided government services as the public defender for NYC. These projects were not traditional because they required flexibility in FEMA's interpretation of Stafford Act definitions of private nonprofit and public facilities that are eligible for public assistance.

Notwithstanding its efforts to be flexible in defining public assistance activities eligible under the Stafford Act, FEMA officials denied some applications because they determined they were not eligible for public assistance under the Stafford Act, but the Congress directed FEMA to reimburse the NYC area for some public assistance-related costs that would not otherwise have been eligible for funding. An estimated total of $2.2 billion of FEMA's public assistance funds—about 28 percent—will go to these costs.[15] This public assistance-related funding was different from work FEMA funds under the Stafford Act. The projects included

[15]The congressionally directed funding includes funding for projects that FEMA officials said were at least partially eligible for public assistance under the Stafford Act (i.e. the contractor portion of the $1 billion debris removal insurance fund to cover workers at the World Trade Center site.)

authorizing a debris removal insurance fund for workers at the World Trade Center site and reimbursing NYC agencies for the costs of providing heightened security after the terrorist attacks. In addition, as discussed on page 24 of this report, as we concluded our review, FEMA and NYC and state officials were considering projects to be funded with $1.2 billion that became available after the close out of traditional work in June 2003 for congressionally authorized purposes. None of these reimbursements were eligible for funding under FEMA's public assistance program. Reimbursements being considered included payment of increased costs of the Medicaid program to meet health needs of recipients after the attacks, a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks, and cost of living adjustments made to the pensions of survivors of firefighters and police officers killed in the line of duty in the terrorist attacks.

Descriptions of Three Projects and the Congressional Actions Taken to Fund Them Follow

Debris removal insurance for workers at the World Trade Center site ($1 billion). As discussed on page 15, this project establishes an insurance company to insure NYC and its contractors for claims arising from debris removal at the World Trade Center, including claims filed by workers who suffer ill health effects as a result of working on debris removal operations. FEMA officials said that the project is unprecedented in its size and complexity and because it involves long-term health and environmental issues of a scope FEMA had not considered in prior major disasters. Although officials said that FEMA has never established an insurance fund to manage claims from other major disasters, FEMA Office of General Counsel officials noted that FEMA does frequently pay for contractors' insurance because it is built into the contract between the public assistance applicant and the contractor. In this instance, workers rushed to the disaster site before any contracts were approved, and no private insurance company would carry the insurance because of unknown liabilities. FEMA officials said that the portion of the project pertaining to contractors qualified for public assistance under the Stafford Act and is a disaster-related cost that FEMA has traditionally assumed in major natural disasters. Expanding the coverage to include liability for claims filed against NYC or by city workers was an eligibility issue that was under consideration within FEMA when Congress authorized the funding in the Consolidated Appropriations Resolution for fiscal year 2003.[16]

[16]Pub. L. No.108-7.

Reimbursement for heightened security costs in the aftermath of the terrorist attacks (amount of funding not determined). FEMA denied applications for public assistance to reimburse city agencies, including the Departments of Environmental Protection, Corrections, Fire, and Transportation to cover costs for increased security (e.g., the Department of Environmental Protection took increased security measures to protect the city water supply). A FEMA official said that the applications were not eligible for public assistance because the work was of the sort that was being done nationwide after the terrorist attacks and were intended to prevent future attacks rather than respond to the disaster that had occurred. However, NYC Office of Management and Budget (OMB) officials said that some of the heightened security costs would be reimbursed as a result of the enactment of the Consolidated Appropriations Resolution for fiscal year 2003, which allowed NYC flexibility in covering disaster-related costs not otherwise reimbursable under the Stafford Act. At the time of our review, the amount of funding to be provided for heightened security costs had not been determined, but it was anticipated by FEMA officials to be over $100 million.

Reimbursement for instructional time for students to make up for days missed after the terrorist attacks ($19.3 million). FEMA initially denied a public assistance request to pay for additional hours of instructional time for students who missed school due to closures, delayed openings, and school relocations in the aftermath of the terrorist attacks. FEMA officials said that the application was denied because the after-school program designed by the NYC Board of Education to make up for the lost instructional time was predicated on direct FEMA funding, but it did not meet the standards of emergency work for which applicants must perform work immediately after a disaster, regardless of who will pay, to eliminate an immediate threat to health, life, and safety. However, FEMA was specifically directed by the congressional conference committee making supplemental appropriations for fiscal year 2002 to provide funds for the additional instructional time. The conference report also directed FEMA to provide compensation to the NYC school system for costs stemming from the terrorist attacks for services and supplies, including mental health and trauma counseling, guidance and grief counseling, and replacement of lost textbooks and perishable food.[17] NYC Board of Education had spent $19.3 million of a total $77.6 million approved for this

[17]House Report 107-593.

work as of April 30, 2003. The remainder of the funding was de-obligated to be used for public assistance related spending authorized by Congress.

Response to NYC Area Creates Uncertainties about How Assistance Would be Delivered in a Future Catastrophic Terrorist Event

Because the public assistance response to the NYC area after the terrorist attacks was unique and expanded in terms of the level and types of assistance provided, it creates uncertainty about how public assistance will be delivered if another catastrophic terrorist attack occurs. Both NYC and FEMA officials, including managers of the World Trade Center Federal Recovery Office and top officials of the NYC Offices of Emergency Management and OMB, agreed that they were uncertain regarding the level and type of future FEMA assistance. These officials stated that if another major terrorist disaster occurs, other communities might seek similar types of assistance as was received in the federal public assistance response to New York. In this regard, an official of the NYC OMB anticipated that one of the first calls by a mayor of a city that experienced a major terrorist event would be to NYC to discuss the decisions made in the aftermath of the World Trade Center attacks. FEMA Recovery Office officials agreed that the decisions made in New York would be on the table at discussions of federal assistance for any future terrorist event. They noted that it would remain to be seen whether an approach similar to the one that evolved in NYC, including a 100 percent federal share for public assistance funding, a capped funding amount, and flexibility in addressing needs, would be used following any future event.

The Congressional Research Service noted similar concerns in a June 2002 report about the implications that the response and assistance provided to the NYC area may have on future federal response to catastrophic terrorist events.[18] The agency's report pointed out that one of the long-standing principles of federal disaster assistance policies has been that federal aid should supplement—not supplant—nonfederal efforts and that the actions taken in the aftermath of the terrorist attacks might have established precedent for an expanded federal role in consequence management after terrorist attacks. The report noted that traditionally, the types and amounts of assistance provided after one disaster have been sought following succeeding catastrophes.

[18]Congressional Research Service, *Federal Disaster Policies After Terrorists Strike: Issues and Options for Congress* (Washington, D.C.: June 24, 2002).

The report also states that the overriding question is whether the range of existing federal policies for responding to disasters is appropriate if a terrorist attack more devastating than that of September 11 were to occur. This is a question to which NYC and FEMA officials have differing positions. With respect to the effectiveness of the Stafford Act in dealing with a major terrorist event of an impact equal to or greater than the World Trade Center attacks, the officials from NYC involved in the response and recovery efforts whom we interviewed did not believe that the act fully addressed the needs of the city and did not think it should be used to respond to major terrorist events unless it had significant amendments to address the unique challenges related to terrorist events. According to top officials of both the NYC Office of Emergency Management and OMB, the public assistance program authorized by the Stafford Act is not a good fit for the needs of a large municipal government that is coping with the effects of a terrorist event. They pointed out that the impacts of the terrorist attacks in NYC were different than impacts from the natural disasters that the act was created to address. For example, the Stafford Act does not address concerns such as the federal government's responsibility for addressing long-term environmental liabilities. Additionally, a NYC emergency management official noted that the Stafford Act lacked provisions for cities and states to be eligible for reimbursement of money spent to provide security in the immediate aftermath of terrorist attacks. The city officials noted that funding to help alleviate these impacts was eventually approved, but not without considerable discussion with FEMA officials and specific direction from Congress.

A key NYC OMB official also said that the Stafford Act is too restrictive for responding to a major terrorist event because it does not allow the reimbursement to affected communities for budget shortfalls resulting from lost tax revenues. The official said that NYC lost tax revenues, both from real estate taxes from the destroyed buildings and corporate, sales, and income taxes from displaced businesses and individuals that were eligible for reimbursement under the Stafford Act. He said that NYC requested $650 million in reimbursement for revenue shortfalls in fiscal years 2002 and 2003 that were directly related to the terrorist attacks. While FEMA officials agreed that the estimate seemed reasonable, the amount was not eligible for reimbursement under the Stafford Act. Congress recognized the problem and provided the city some flexibility to cover expenses in these areas. However, the New York OMB official said that a federal block grant would have allowed the city to spend the money in ways that were most needed without specific congressional authorization to do so; he viewed a block grant approach to providing

disaster relief as preferable to trying to obtain the funding under the Stafford Act.

In contrast, FEMA officials said that the Stafford Act worked appropriately for the NYC area. FEMA attorneys said that the Stafford Act contains enough flexibility to allow funding for non traditional activities. They added that every disaster has unique aspects, which continually challenge FEMA officials to exercise their discretion under the act to provide needed assistance. Furthermore, they point out that it is always the prerogative of the Congress to provide additional assistance to disaster-affected areas to address specific and unique needs. If Congress saw a need to fund public assistance-related work not covered under the Stafford Act in the event of another major act of terrorism, it could appropriate funds specifically for the disaster, as it did in NYC. Consequently, the FEMA officials are generally satisfied that they are able to apply provisions of the Stafford Act to respond to the terrorist attacks and, as of June 2003, did not believe significant changes to the legislation were necessary in the aftermath of September 11, 2001.

Nevertheless, FEMA recently initiated an effort to develop a concept for redesigning the public assistance program. A working group of the Public Assistance Program Redesign Project, formed at the request of the director of FEMA's Recovery Division, held its first meeting in May 2003. Members included FEMA public assistance and research and evaluation staff and state program managers to provide a broader perspective on the issues and concerns. The project was established to suggest proposals to improve the public assistance program and make it more efficient and capable of meeting community needs for all types and sizes of disasters, including those resulting from terrorism. Among other things, the project seeks to transform the program to one that:

- is flexible enough to meet the demands of disasters of all types and sizes,
- reduces overall resource requirements,
- offers incentive for timely close outs,
- places operational control principally with states and applicants, and
- eliminates redundancies in decision making and processes.

The working group will examine potential options for redesigning the program that include an annual block grant program managed by the

states, a disaster-based state-managed program, and a capped funding amount. The project is currently scheduled to hold a listening session for local officials and representatives of other organizations in August 2003, and develop a basic concept design for revising the program by September 30, 2003.

Conclusions

The public assistance program FEMA delivered in the NYC area after the terrorist attacks was substantially different in several ways from a "typical" FEMA public assistance response. For example, in the NYC area there was a lack of cost sharing with state and local governments; a smaller than usual federal share of hazard mitigation funding; a different process for project review, selection, and close out; and, most significantly, the size and scope greatly exceeds the traditional public assistance response after a major natural disaster. The reasons for these differences are many and include the President's early commitment to providing a specified amount of funding to New York, congressional direction on activities to fund, and FEMA's discretion under the Stafford Act.

Irrespective of the reasons for the differences in the way public assistance was delivered after the terrorist attacks, these differences raise questions about FEMA's response to any future major terrorist event in this country. The key issue is whether the differences in the ways the public assistance program in the NYC area was delivered will serve a baseline for the federal approach in the event of another major terrorist event. Should such a terrorist event occur, it is not unrealistic to assume that affected communities will expect to receive public assistance comparable to that provided for the NYC area to meet their needs.

DHS, within its Emergency Preparedness and Response Directorate, has an opportunity to assess the questions raised as a result of these differences and, if necessary, revise the public assistance program or provide Congress with suggestions for legislative changes that are needed so that it will be positioned to address new expectations for disaster assistance. The newly formed Public Assistance Redesign Project, established as we were concluding our audit work at the request of the Director of FEMA's Recovery Division, plans to address many of the issues raised in this report, including whether the approach used in NYC is the appropriate way to provide federal assistance for recovery from terrorist acts. It is too early for us to assess the impact the project will have on the public assistance program in the future; however, it is a promising first step toward addressing these issues and better ensures that DHS will have

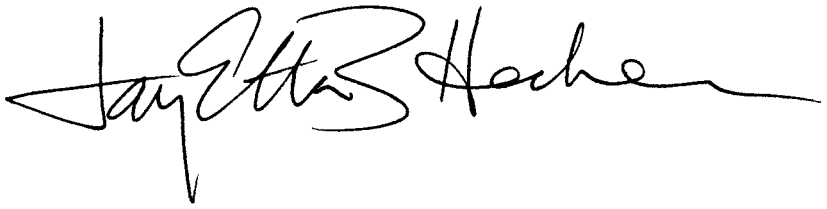
a process in place to deliver public assistance that eliminates uncertainties and questions about the ways in which the needs of affected communities will be met in the event of another major terrorist attack.

Agency Comments

In commenting on a draft of this report, the Acting Director of FEMA's Recovery Division said that FEMA officials are proud of the agency's response in delivering public assistance programs to NYC and state, and that they are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York. The Acting Director did not take exception to any of the information provided in our report. FEMA's comments are reprinted in appendix II. FEMA also provided technical comments on our draft, which we incorporated into the report where appropriate.

As we agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this letter. We will then send copies of this report to the Secretary of Homeland Security and interested congressional committees. We will make copies available to others upon request. In addition, this report will be available at no charge on our Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me on (202) 512-2834 or at heckerj@gao.gov. Individuals making key contributions to this report are listed in appendix III.



JayEtta Hecker
Director, Physical Infrastructure Issues

Appendix I: Scope and Methodology

To determine what activities the Federal Emergency Management (FEMA) supported through its public assistance program, we analyzed published FEMA reports and FEMA's National Emergency Management Information System (NEMIS) data. NEMIS is FEMA's primary information system that manages disaster grant funding, and we analyzed NEMIS data on public assistance funding for this disaster. Though we were not able to completely assess the reliability of the published FEMA program data, we did perform logic tests of the data and found no obvious errors of completeness or accuracy. Also, according to FEMA officials, the published reports are the most reliable information available. The officials said that published FEMA reports were compiled based on NEMIS data, as well as the knowledge of public assistance program managers of funding for specific projects. We also updated spending amounts for some projects to reflect changes made after FEMA's June 30, 2003,closeout of the traditional public assistance program, based on technical comments to our draft report. We interviewed FEMA headquarters, regional, and recovery office officials in New York City, N.Y., and Washington, D.C. We analyzed FEMA, Office of Management and Budget (OMB), and Congressional Research Service reports on federal assistance to the New York City (NYC) area to recover from the terrorist attacks. We reviewed the Stafford Act and FEMA regulations for ensuring that public assistance program funds are spent appropriately on eligible work and discussed oversight processes with FEMA headquarters, regional, and recovery office officials. We also discussed the agreements that FEMA used to coordinate responses of other federal agencies. We selected and examined the FEMA agreements with the U.S. Army Corps of Engineers, Department of Transportation (DOT), and Environmental Protection Agency (EPA) and reviewed support documents. We met with officials of the FEMA Inspector General to discuss planning for full audits of selected projects within 3 years of their completion.

To determine how the federal government's response to the terrorist event differed from FEMA's traditional approach to funding public assistance in other disasters, we selected 10 projects for detailed review from an issue matrix created by the public assistance officer at the World Trade Center Federal Recovery Office. The issue matrix tracked 32 public assistance funding issues and other types of concerns that required higher than normal levels of review. In making our selection of projects, we consulted with officials of the FEMA Office of General Counsel in Washington, D.C., and FEMA officials at the World Trade Center Recovery Office in New York City, N.Y. For each project selected, we reviewed available written documentation such as project worksheets, case management files, letters, and memoranda. We reviewed the legislation that directed FEMA to fund

selected projects. Using structured interview instruments, we interviewed FEMA project managers and representatives of agencies that applied for public assistance to discuss how the challenging issues were considered and resolved. Table 1 lists the 10 projects we reviewed and the applicant organizations that participated in interviews on each of them. We also discussed FEMA's staffing processes with human resources officials at FEMA Headquarters in Washington, D.C., World Trade Center Federal Recovery Office managers, and representatives of each of FEMA's three technical assistance contractors who sent staff to NYC.

Table 1: Ten Projects We Reviewed and Applicant Organizations Interviewed for Each of Them

Project	Applicant organization
Debris removal insurance for workers at Ground Zero	• NYC OMB
Reimbursement for NYC budget deficits directly related to the terrorist attacks	• NYC OMB
Reimbursement for instructional time for students to make-up for days missed after the terrorist attacks	• NYC Department of Education
NYC share of reimbursement for pension actuarial losses resulting from line of duty deaths of police and firefighters at Ground Zero	• NYC OMB
Commuter train station construction costs	• Port Authority of N.Y. and N.J. • NYC Department of Transportation
Reimbursement for damage to voting equipment and rescheduling NYC elections	• NYC Board of Elections
Reimbursement for heightened security costs in the aftermath of the terrorist attacks	• NYC OMB • NYC Office of Emergency Management • NYC Fire Department • NYC Police Department • NYC Office of Corrections • NYC Department of Environmental Protection
Cleaning of dust and debris from emergency vehicles	• NYC OMB • NYC Office of Emergency Management • NYC Fire Department • NYC Police Department
WNET Public Television eligibility for public assistance for disaster-related costs	• Educational Broadcasting Corporation (WNET)

Project	Applicant organization
Legal Aid Society of N.Y. eligibility for public assistance for disaster-related Costs	• N.Y. Legal Aid Society

Source: GAO.

To identify some of the implications these different approaches may have on the delivery of public assistance should terrorist attacks causing similarly catastrophic damage occur in the future, we interviewed FEMA officials in NYC, and FEMA and Congressional Research Service officials in Washington, D.C. We also analyzed our report and Congressional Research Service reports on federal emergency response and recovery policies, and we reviewed the Stafford Act and FEMA regulations.

We conducted this review from August 2002 to July 2003. We performed our audit work in accordance with generally accepted government auditing standards.

Appendix II: Comments from the Federal Emergency Management Agency



Federal Emergency Management Agency
Washington, D.C. 20472

AUG 20 2003

Ms. JayEtta Z. Hecker
Director, Physical Infrastructure Team
U.S. General Accounting Office
441 G Street, N.W.
Washington, DC 20515

Dear Ms. Hecker:

Thank you for having provided FEMA the opportunity to comment on the United States General Accounting Office draft report entitled "Information on FEMA's Post-9/11 Public Assistance to the New York City Area." Your staff incorporated many of our suggestions and information, thereby making the report more accurate.

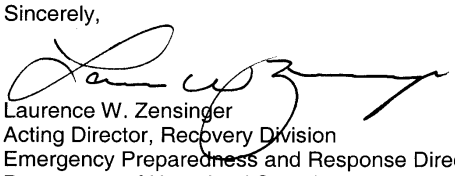
Given the enormous challenge presented by the September 11 terrorist attacks, we are proud of FEMA's response in delivering its Public Assistance programs to New York City and New York State. While FEMA does not have comprehensive authority to provide all assistance requested, we are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York.

Once the President declares a major disaster, FEMA implements its Public Assistance program to provide reimbursement for necessary assistance such as emergency protective measures, debris removal and infrastructure repair. While every disaster presents unique circumstances, FEMA's Public Assistance program and its processes and policies established prior to September 11 were implemented for New York with only slight modifications. This demonstrates the flexibility of FEMA's authority and its ability to provide essential Public Assistance regardless of the cause of the event.

More than 17 months after the disaster, Congress provided FEMA, in the Consolidated Appropriations Resolution, 2003, P.L. 108-7, additional authority to ensure that FEMA would be authorized to expend its full appropriation for the New York recovery effort. Only then was FEMA able to modify its Public Assistance program by implementing an expedited financial closeout to expedite the obligation of FEMA's remaining funds to New York.

We appreciate the opportunity you have given us to make meaningful contributions to your report. Please call me at (202) 646-3642 if you have any additional questions.

Sincerely,



Laurence W. Zensinger
Acting Director, Recovery Division
Emergency Preparedness and Response Directorate
Department of Homeland Security

Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

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John R. Schulze (202) 512-4390

Acknowledgments

In addition to those named above, John E. Bagnulo, C. Vashun Cole, Kara Finnegan-Irving, Julian L. King, Deborah A. Knorr, and John A. Rose

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August 2003

ENERGY TASK FORCE: Process Used to Develop the National Energy Policy

United States General Accounting Office

GAO

Report to Congressional Requesters

August 2003

ENERGY TASK FORCE

Process Used to Develop the National Energy Policy



GAO-03-894

August 2003

ENERGY TASK FORCE

Process Used to Develop the *National Energy Policy*

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-03-894, a report to congressional requesters

Why GAO Did This Study

On January 29, 2001, the President established the National Energy Policy Development Group (NEPDG)—a group of cabinet-level and other senior administration officials, chaired by the Vice President—to gather information, deliberate, and recommend a national energy policy. The group presented its final report to the President in May 2001. GAO was asked to (1) describe the process used by the NEPDG to develop the *National Energy Policy* report, including whom the group met with and what topics were discussed and (2) determine the costs associated with that process.

Although appointed NEPDG Chair, the Vice President elected not to respond to GAO's request for certain factual NEPDG information. Accordingly, as authorized by GAO's access-to-records statute, and after exhausting efforts to achieve a resolution and following the processes specified in that statute, GAO filed suit in U.S. District Court to obtain the information. The district court later dismissed GAO's suit on jurisdictional grounds, without reaching the merits of GAO's right to audit and evaluate NEPDG activities or to obtain access to NEPDG records. For a variety of reasons, GAO decided not to appeal the district court decision.

DOE, Interior, and EPA reviewed the draft report and chose not to comment. OVP declined an offer to review the draft and comment.

www.gao.gov/cgi-bin/getrpt?GAO-03-894.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robert A. Robinson at (202) 512-3841 or robinsonr@gao.gov.

What GAO Found

According to the best information that GAO could obtain, the *National Energy Policy* report was the product of a centralized, top-down, short-term, and labor-intensive process that involved the efforts of several hundred federal employees governmentwide. In the 3 ½ months between the inception of NEPDG and its presentation of the final report, the Principals (the Vice President, selected cabinet-level and other senior administration officials) and their support staff (Support Group) controlled most facets of the report's development, including setting meeting schedules and agendas, controlling the workflow, distributing work assignments, rewriting chapters, and approving recommendations. Senior agency officials served on a select interagency Working Group, while the majority of agency staff working on the NEPDG effort played a tributary role, helping their agencies fulfill their NEPDG-related obligations and responding to the Support Group's subsequent requests for information, review, or comment.

In developing the *National Energy Policy* report, the NEPDG Principals, Support Group, and participating agency officials and staff met with, solicited input from, or received information and advice from nonfederal energy stakeholders, principally petroleum, coal, nuclear, natural gas, and electricity industry representatives and lobbyists. The extent to which submissions from any of these stakeholders were solicited, influenced policy deliberations, or were incorporated into the final report cannot be determined based on the limited information made available to GAO. NEPDG met and conducted its work in two distinct phases: the first phase culminated in a March 19, 2001, briefing to the President on challenges relating to energy supply and the resulting economic impact; the second phase ended with the May 16, 2001, presentation of the final report to the President. The Office of the Vice President's (OVP) unwillingness to provide the NEPDG records or other related information precluded GAO from fully achieving its objectives and substantially limited GAO's ability to comprehensively analyze the NEPDG process.

None of the key federal entities involved in the NEPDG effort provided GAO with a complete accounting of the costs that they incurred during the development of the *National Energy Policy* report. The two federal entities responsible for funding the NEPDG effort—OVP and the Department of Energy (DOE)—did not provide the comprehensive cost information that GAO requested. OVP provided GAO with 77 pages of information, two-thirds of which contained no cost information while the remaining one-third contained some miscellaneous information of little to no usefulness. OVP stated that it would not provide any additional information. DOE, the Department of the Interior, and the Environmental Protection Agency (EPA) provided GAO with estimates of certain costs and salaries associated with the NEPDG effort, but these estimates, all calculated in different ways, were not comprehensive.

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Abbreviations

DOE	Department of Energy
EPA	Environmental Protection Agency
NEPDG	National Energy Policy Development Group
OVP	Office of the Vice President

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GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, D.C. 20548

August 22, 2003

Congressional Requesters:

As one of the new administration's first major actions, on January 29, 2001, the President created a group of cabinet-level and other senior federal officials, chaired by the Vice President, to develop a national energy policy. The President charged the group, called the National Energy Policy Development Group (NEPDG), with developing "a national energy policy designed to help the private sector, and government at all levels, promote dependable, affordable, and environmentally sound production and distribution of energy for the future."[1] NEPDG presented its final report to the President on May 16, 2001.[2] The report contained over 100 recommendations for executive actions or new legislation. The Congress is now considering the energy-related legislative proposals.

You asked us to examine the process used by the President's energy policy taskforce.[3] Specifically, our objectives were to (1) describe the process used by NEPDG to develop the *National Energy Policy* report, including whom the group met with and the topics discussed at these meetings, and (2) determine the costs associated with that process. In order to close out this request, we are providing a limited analysis based on the best information that has been made available to us.

To address our objectives, we followed a two-pronged information gathering effort. First, starting in the spring of 2001, we began gathering information from several federal agencies involved in the report's development—the Department of Energy (DOE), the Department of the Interior (Interior), and the Environmental Protection Agency (EPA). At each of the agencies, we interviewed senior agency officials that were involved in the NEPDG effort and received written correspondence and other materials from them providing detailed responses to our questions. Agency officials based most of their answers on their best recollections or

[1]Pres. Memorandum (Jan. 29, 2001).

[2]*National Energy Policy: Report of the National Energy Policy Development Group*. U.S. Government Printing Office (Washington, D.C.: May 2001).

[3]In April 2001, Representatives Henry A. Waxman and John D. Dingell asked us to examine the process and costs associated with the NEPDG. Subsequently, Senators Joseph I. Lieberman, Ernest F. Hollings, Carl M. Levin, and Byron L. Dorgan, chairs of their respective committees or subcommittees at the time of their request, also requested this analysis.

on information reconstructed from electronic schedules. Our meetings with officials yielded information regarding the meetings that Cabinet-level agency officials attended and meetings that agency officials held with NEPDG support staff (Support Group). Officials also provided us with selected information on meetings held with nonfederal energy stakeholders to discuss issues related to energy aspects of their agency's activities.

Second, also starting in spring of 2001, we initiated contact with the Office of the Vice President (OVP), as NEPDG Chair, to obtain NEPDG records responsive to your request. From the outset, OVP did not respond to our request for information, including descriptive information on the process by which the *National Energy Policy* report was developed, asserting that we lacked statutory authority to examine NEPDG activities. We were also denied the opportunity to interview staff assisting the Vice President on the NEPDG effort. As a result, throughout the spring and summer of 2001, we engaged in extensive attempts to reach an agreement with OVP on our information request in an effort to fulfill our statutory responsibilities in a manner that accommodated the Vice President's asserted need to protect certain executive deliberations. Importantly, we significantly narrowed the scope of our review by, among other things, withdrawing our initial request for minutes of NEPDG meetings. We also offered flexibility in how we would access certain documents. Despite our concerted efforts to reach a reasonable accommodation, the Vice President denied us access to virtually all requested information, with the exception of a few documents purportedly related to NEPDG costs that OVP provided to us. The Vice President's denial of access challenged GAO's fundamental authority to evaluate the process by which NEPDG had developed a national energy policy and to obtain access to records that would shed light on that process. As authorized by GAO's access-to-records statute, after exhausting the processes specified in that statute for achieving a resolution and receiving a request from two senate full committee chairs and two senate subcommittee chairs to pursue our evaluation,[4] we filed suit in the U.S. District Court for the District of Columbia on February 22, 2002, to obtain

[4]31 U.S.C. § 717(b)(3) requires GAO to conduct evaluations requested by chairs of congressional committees of relevant jurisdiction.

the limited factual NEPDG information that we had requested.[5] On December 9, 2002, the district court dismissed GAO's suit on jurisdictional grounds, without reaching the merits of GAO's authority to audit and evaluate NEPDG activities or to obtain access to NEPDG records.[6] After considerable bipartisan outreach efforts to the Congress, GAO decided not to appeal the district court decision.[7] A detailed chronology of our efforts to obtain access to NEPDG records can be found on GAO's Web site.

OVP's unwillingness to provide NEPDG records and other related information precluded us from fully achieving our objectives in accordance with generally accepted government auditing standards and substantially limited our ability to answer the questions you asked and the depth of our analysis. Yet, given the unique circumstances surrounding this request, our protracted attempts to acquire this information, and the availability of certain related documents in the public realm, we gathered and analyzed available information on the NEPDG effort to provide as robust an account as possible under the circumstances. Specifically, in order to more fully analyze and describe the NEPDG report development process, beginning in March 2002, we obtained, reviewed, and analyzed NEPDG-related information from federal agencies involved in the NEPDG effort that was

[5]As authorized by 31 U.S.C. § 716(b)(1), the Comptroller General sent a formal request for the NEPDG records to OVP on July 18, 2001. After a requisite 20-day period passed without any meaningful action, the Comptroller General reported on August 17, 2001, to the Congress, the President, the Vice President, and other officials, that OVP had not provided the requested information. After a second requisite 20-day period passed, again without any meaningful action, and subsequent to a reasonable amount of time after the tragic events of September 11, 2001, and additional attempts to reach resolution of this matter, the Comptroller General filed suit on February 22, 2002, as authorized by 31 U.S.C. § 716 (b)(2). The executive branch chose not to invoke the "safety valve" certification mechanism in 31 U.S.C. § 716 (d)(1)(C) that would have precluded GAO from taking the unprecedented step of going to court. Furthermore, the President did not seek to protect the information from disclosure by claiming that it was subject to executive privilege.

[6]*Walker v. Cheney*, 230 F. Supp. 2d 51 (D.D.C. 2002).

[7]Although GAO believes the district court's decision is incorrect, as detailed in the Comptroller General's statement on February 7, 2003, continuing to pursue GAO's access request through the courts would have required significant time and resources over several years. At the same time, several private litigants are seeking much of the same NEPDG information from OVP that GAO sought, and we plan to obtain those records, if these cases are successful. Moreover, because the district court's decision in GAO's case did not reach the merits of GAO's audit or access authority, the decision in no way diminishes these authorities or the obligation of agencies to provide GAO with information. The court's decision is confined to the unique circumstances posed by this particular case and does not preclude GAO from filing suit on a different matter involving different facts in the future.

released under court order in four other ongoing lawsuits filed under other statutes.[8] The agencies releasing documents included DOE, Interior, and EPA, as well as the Department of Transportation, Department of Commerce, Department of Agriculture, and the Office of Management and Budget. We could not independently verify some of the information contained in these documents because the agencies had redacted data from more than one-third of the pages. The agencies asserted that the redacted information was exempt from production under the Freedom of Information Act because it reflected deliberative processes among other things. For the thousands of pages that contained some information responsive to our objectives, we compared and contrasted their contents, sought corroboration from other sources, and pieced together a general description of the *National Energy Policy* report development process. Included in these pages were several hundred E-mails and other documents generated by OVP or the Support Group. Some of these documents revealed information about the process used to develop the NEPDG report, but none of them contained cost information beyond that which we had previously obtained.

Results in Brief

According to the best information that we could obtain, the *National Energy Policy* report was the product of a centralized, top-down, short-term, and labor-intensive process that involved the efforts of several hundred federal employees governmentwide. NEPDG—comprised mostly of cabinet-level officials (Principals)—and its Support Group—comprised mostly of select DOE officials detailed to OVP—controlled most facets of the report's development. Officials from each participating agency served on a select interagency working group (Working Group), which prepared draft report chapters for the Principals' review. Agency staff played a tributary role, helping their respective agency complete its NEPDG-related

[8]These suits have since been consolidated into two lead suits: *Natural Resources Defense Council v. Department of Energy*, No. 1:01CV2545 (D.D.C.) (filed under the Freedom of Information Act (FOIA)), and *Judicial Watch, Inc. v. NEPDG et al.*, No. 01-1530 (D.D.C.) (filed under the Federal Advisory Committee Act (FACA) and other statutes). OVP has refused to produce any documents to date in either litigation and the Vice President filed an action in the U.S. Court of Appeals for the D.C. Circuit seeking to have the latter district court case dismissed. See *In re Cheney*, No. 02-5354 (D.C. Cir.). On July 8, 2003, the D.C. Circuit denied the Vice President's petition in the D.C. Circuit; the Vice President is seeking rehearing of this denial. As part of the court proceedings in the consolidated FACA cases, DOE, Interior, and EPA produced interrogatory responses, which were provided to us. Certain documents generated by OVP personnel were produced in the *NRDC v. DOE* FOIA cases, but these were produced by other agencies, not by OVP.

assignments, providing draft outlines and chapters to the Working Group and Principals, and responding to the Support Group's subsequent requests for information, review, or comment. In developing the *National Energy Policy* report, the Principals, Support Group, and participating agency staff also met with, solicited input from, or received information and advice from nonfederal energy stakeholders, principally petroleum, coal, nuclear, natural gas, and electricity industry representatives and lobbyists. To a more limited degree, they also obtained information from academic experts, policy organizations, environmental advocacy groups, and private citizens. The extent to which submissions from any of these stakeholders were solicited, influenced policy deliberations, or were incorporated into the final report is not something that we can determine based on the limited information at our disposal. Nor can we, because of OVP's unwillingness to provide us with information, provide a comprehensive listing of the dates or purposes of these meetings, their attendees, or how the attendees, when solicited, were selected. NEPDG held periodic meetings and conducted its work in two distinct phases: the first culminating in a March 19, 2001, briefing on challenges relating to energy supply and the resulting economic impact; the second ending with the May 16, 2001, presentation of the final report to the President.

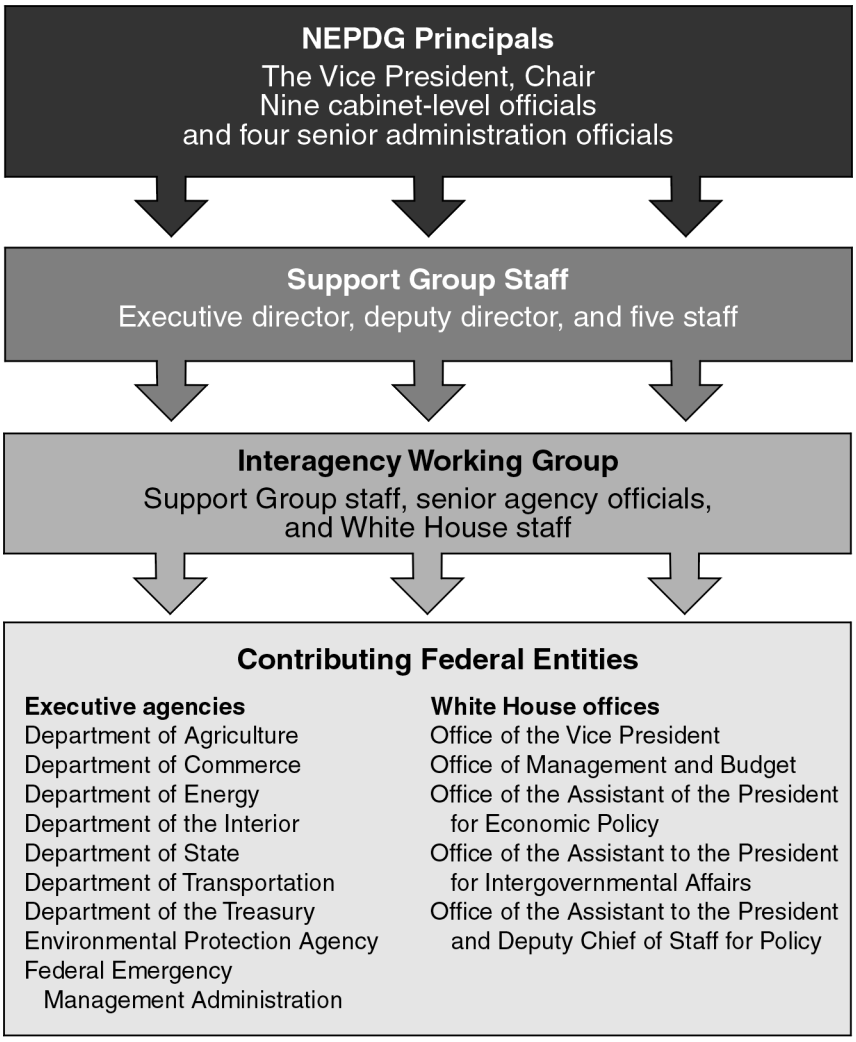
None of the federal entities involved in the NEPDG effort that we contacted provided us with a complete accounting of the costs that they incurred during the development of the *National Energy Policy* report. The two federal entities responsible for funding the NEPDG effort—OVP and DOE—did not provide us with the comprehensive cost information that we requested. Instead, OVP provided us with 77 pages of information, two-thirds of which contained no cost information or were essentially blank, while the remaining one-third contained some miscellaneous information—such as a meal receipt or telephone bills—of little to no usefulness. In response to our requests seeking clarification of the provided information, OVP stated that it would not provide any additional information. DOE, EPA, and Interior provided us with estimates of their costs associated with the report development process, but these estimates, all calculated in different ways, were not comprehensive. DOE provided us with selected cost information, including salary estimates for its employees detailed to OVP, printing and publication costs, and other incidental expenses. EPA and Interior provided salary cost estimates for some of their senior officials involved in the report's development. The precision of these estimates varied. Although most of the identified costs were salary-oriented, officials noted that employees did not specifically record the amount of time spent on NEPDG-related tasks because many of them

already worked on energy policy and thus would have likely conducted a substantial portion of the work even without the NEPDG project taking place. One agency cautioned us not to expect its salary estimate to be precise, noting that it had been primarily based on employee recollection and guesswork.

The *National Energy Policy* Report Was the Product of a Centralized, Top-Down Process

The *National Energy Policy* report was the product of a short-term, labor-intensive process that involved the efforts of several hundred federal employees governmentwide. In the 3½ months between NEPDG's inception and its presentation of the final report, the Principals and Support Group controlled most facets of the report's development, including setting meeting schedules and agendas, controlling the workflow, distributing work assignments, rewriting chapters, approving recommendations, and securing the report's contents from premature disclosure. Senior agency officials served on a select interagency Working Group, while the majority of staff working on the NEPDG effort played a tributary role, (1) helping their agency fulfill its NEPDG-related obligations, (2) providing NEPDG with analytical information, and (3) responding to the Support Group's subsequent requests for information, review, or comment. In developing the *National Energy Policy* report, the NEPDG Principals, Support Group, and participating agency staff also met with, solicited input from, or received information and advice from nonfederal energy stakeholders, primarily petroleum, coal, nuclear, natural gas, electricity industry representatives and lobbyists. To a more limited degree, they also received information from academic experts, policy organizations, environmental advocacy groups, and private citizens. NEPDG met and conducted its work in two distinct phases: the first phase culminated in a March 19, 2001, briefing on challenges relating to energy supply and the resulting economic impact; the second phase ended with a May 16, 2001, presentation of the final report to the President. Figure 1 depicts the top-down process and its participants.

Figure 1: Structure Used in Developing the *National Energy Policy*[a]



Source: GAO.

[a]All of the tiers shown here to some extent met with, solicited input from, or received information and advice from nonfederal energy stakeholders.

Cabinet-Level Officials and Support Group Staff Controlled the Report Development Process

In a January 29, 2001, memorandum, the President established NEPDG—comprised of the Vice President, nine cabinet-level officials, and four other senior administration officials—to gather information, deliberate, and

make recommendations to the President by the end of fiscal year 2001.[9] The President called on the Vice President to chair the group, direct its work and, as necessary, establish subordinate working groups to assist NEPDG. The President requested NEPDG to submit two reports: the first, an assessment of the difficulties experienced by the private sector in ensuring that local and regional energy needs are met; the second, a report outlining a recommended national energy policy designed to help the private sector, and as necessary and appropriate, federal, state, and local governments, to promote dependable, affordable, and environmentally sound production and distribution of energy for the future. More specifically, the memorandum mentioned four areas of concentration: (1) growing demand for energy; (2) the potential for disruptions in energy supplies or distribution; (3) the need for responsible policies to protect the environment and promote conservation; and (4) the need for modernization of the energy generation, supply, and transmission infrastructure.

NEPDG Principals

The 14 NEPDG members—the Vice President, 9 Cabinet-level officials, and 4 other senior administration officials—were responsible for developing the *National Energy Policy* report. In a series of formal meetings convened by the Vice President, the group presented briefings, received assignments and the latest drafts, and discussed agenda items and recommendations. The following list shows the NEPDG members.

- The Vice President, NEPDG Chair;
- The Secretary of State;
- The Secretary of the Treasury;
- The Secretary of the Interior;
- The Secretary of Agriculture;
- The Secretary of Commerce;

[9]In the *Judicial Watch* FACA litigation now pending in district court (see footnote 8), the plaintiffs contend that NEPDG membership was not limited to these federal officials but also included certain nonfederal parties. The court has not yet decided this issue, and this report takes no position on it.

- The Secretary of Transportation;
- The Secretary of Energy;
- The Director of the Federal Emergency Management Agency;
- The Administrator of the Environmental Protection Agency;
- The Director of the Office of Management and Budget;
- The Assistant to the President and Deputy Chief of Staff for Policy;
- The Assistant to the President for Economic Policy; and
- The Deputy Assistant to the President for Intergovernmental Affairs.[10]

NEPDG formally convened 10 times between January 29, 2001, and May 16, 2001. Meetings were held on the following dates: January 29, February 9 and 16, March 12 and 19, April 3, 11, and 18, May 2 and 16, 2001.[11] All but two of the meetings were held in the Vice President's Ceremonial Office. According to OVP staff and other federal officials who attended these formal meetings, attendance was strictly limited to officers and employees of the federal government. These officials indicated that none of the Principals' meetings was open to the public nor did any nonfederal participants attend. However, no party provided us with any documentary evidence to support or negate this assertion. Due to space constraints, the Principals' meetings typically included the Vice President, the Principals and their accompanying staff, the Support Group, and members of the Vice President's staff. For meetings that took place when the Principals could not be present, or when the Principal had yet to be appointed, another agency official would attend instead. Agency officials participating in these meetings could not recollect whether official rosters or minutes were kept at the meetings.

[10]The President originally named the Assistant to the President for Intergovernmental Affairs as an NEPDG member. However, because the President had not appointed anyone to serve in this position, the Vice President instead invited the Deputy Assistant to the President and Director of Intergovernmental Affairs to attend the meetings.

[11]NEPDG Principals met one more time on July 13, 2001, after the publication of the final report. We did not include this meeting in our total because it lay beyond the scope of our review.

The 10 Principals' meetings covered a variety of topics, depending on the status of efforts on the report and concerns raised about these efforts. The Support Group developed the meeting agendas and sent them out to agencies shortly before the meetings commenced. According to the proposed meeting agendas and our discussions with agency officials, the meetings generally lasted between 1 and 2 hours, and nearly all of them included a brief update on the California energy situation. The early meetings involved more procedural discussions than the later meetings, which focused more on a discussion of specific policy recommendations. (See table 1.)

Table 1: NEPDG Principals' Meetings from January 29 to May 16, 2001

Meeting date	Location	Meeting agenda
January 29, 2001	The Vice President's Ceremonial Office, Eisenhower Executive Office Building (EEOB)	A brief, ceremonial event at which the President announced the formation of NEPDG, its mission, membership, and chair.
February 9, 2001	The Vice President's Ceremonial Office, EEOB	(1) Status report on the California crisis, (2) Discussion of Senator Murkowski's and Congressman Barton's pending legislative initiatives, (3) Discussion of the seven working subgroups to be established: short-term energy supply; programs for consumers and low-income households; economic impact of energy; development of alternative and renewable energy sources; conservation and increased energy efficiency; increased production of traditional energy sources; infrastructure investment, integrity, and safety; and national energy security and international affairs.
February 16, 2001	The Vice President's Ceremonial Office, EEOB	(1) Briefing on California/Western electricity and natural gas situation, (2) Energy Information Administration briefing on its *Annual Energy Outlook 2001*, and (3) Review of final report outline.
March 12, 2001	The Vice President's Ceremonial Office, EEOB	An Energy Information Administration briefing, distribution of final draft interim report, discussion of rollout, and status update on final report.
March 19, 2001	The White House, Cabinet Room	Oral presentation of interim report to the President.
April 3, 2001	The Vice President's Ceremonial Office, EEOB	Discussions of the following issues/recommendations: Corporate Average Fuel Economy standards; a multi-pollutant strategy; nuclear energy; Outer Continental Shelf/Arctic National Wildlife Refuge; safe drinking water/hydraulic fracturing; energy efficiency. A last-minute agenda item was added shortly before the meeting.
April 11, 2001	The Vice President's Ceremonial Office, EEOB	Discussions of the following issues/recommendations: carbon dioxide, hydropower licensing, Coastal Zone Management Activities, tax credit issues, and permitting.

(Continued From Previous Page)

Meeting date	Location	Meeting agenda
April 18, 2001	The Vice President's Ceremonial Office, EEOB	(1) Update on California energy situation; (2) update on final written report to the President; (3) discussion of key report issues and proposed recommendations: energy policy principles, tax credit issues, New Source Review reform, reformulated gas, and electricity deregulation; and (4) an executive session without staff to further discuss proposed recommendations.
May 2, 2001	The Vice President's Ceremonial Office, EEOB	Agenda items: (1) Update on California energy situation; (2) Update on final written report to the President; (3) Discussion of following energy issues: spiking gasoline prices, refineries, New Source Review, boutique fuels, final report rollout status. An executive session followed for further discussion.
May 16, 2001	The White House, Cabinet Room	Presentation of final report to the President.

Source: GAO.

NEPDG Support Group

A support staff of seven—six DOE employees assigned to OVP and one White House fellow—assisted NEPDG in developing the *National Energy Policy*. The Support Group consisted of an executive director, a deputy director, two senior professionals, a communications director, the fellow, and a staff assistant.[12]

The Support Group served as the hub of the overall NEPDG effort and coordinated its workflow. Among its many tasks, the Support Group assigned specific responsibilities and chapters to individual agencies; established and presided over an interagency Working Group; scheduled and attended NEPDG-related meetings and determined their agendas; set internal deadlines; controlled the workflow; served as a central collection and distribution point for participating agencies' draft outlines, report chapters, comments, and recommendations; and drafted the final report. The executive director and deputy director also held meetings with various agency staff to discuss their agencies' input to individual chapters, conduct peer review sessions, and discuss other issues.

The Support Group did not generally discuss its activities with staff at the agencies. Instead the Support Group frequently used meetings as a forum to unveil new assignments, drafts, topics, and guidance for Working Group members to deliver back to their respective agencies. The Support Group staff, specifically the executive director and deputy director, provided

[12]Two members of the Support Group staff joined the NEPDG effort in April 2001: a senior professional, who was brought in to help draft the final report, and the communications director, who was brought in to develop a marketing strategy for rolling out the final report.

instructions to the Working Group participants and coordinated the activities of each participating agency. Agencies transmitted their work product to other Working Group members largely through the White House.

NEPDG Interagency Working Group

To coordinate the day-to-day work of developing the *National Energy Policy* report, the NEPDG executive director established an interagency Working Group, comprised of staff-level officials from each participating agency and several White House and Support Group staff. The NEPDG executive director and deputy director oversaw the Working Group's activities, instructed participating agencies on their roles and assignments, and facilitated communication among the Working Group participants. The Working Group developed a draft outline for the energy policy report and relayed work assignments to the agencies responsible for particular areas. Available information did not allow us to determine the number of Working Group meetings held or the number of attendees at any given meeting.

NEPDG members were free to assign one or more staff to the Working Group. The Working Group met frequently in February and March 2001 to review the latest outlines and drafts, report on the status of their specific assignments, represent agency views, provide comments to other agencies, and obtain further instructions. For example, the first Working Group meeting held on February 9, 2001, concentrated on the group's approach to developing a national energy policy and the milestones for completing the process. The second meeting held on February 13, 2001, focused on determining the chapters that would be included in the final report. Subsequent meetings typically involved a review of drafts in which the lead authors would lead discussion on a chapter's main points. Attendees would comment on the chapters or propose new or revised text for the group's discussion. The Working Group considered various alternatives in language, tone, and recommendations for the report and then decided on a particular course of action to recommend to the Vice President.

The Working Group met often in February and March 2001, generally several days before and immediately following the Principals' meetings. Most of these meetings took place in the Vice President's Ceremonial Office, although several had to be rescheduled elsewhere. Working Group meetings were frequently cancelled or postponed as a result of scheduling conflicts. In a sworn declaration submitted to the court in one of the

lawsuits seeking NEPDG records,[13] the NEPDG deputy director stated that all attendees at the Working Group meetings were federal employees, with one exception—a contractor, who engaged in providing technical writing and graphic design services, worked with the group and sat in on portions of no more than three of the meetings. However, attendance lists and minutes of these meetings, if kept, were not made available to us, nor were members of the Support Group allowed to discuss these meetings with us. Thus we were unable to verify any assertions about the composition of personnel at the meetings or about the general subjects discussed.

The Working Group met with Support Group staff for the last time on April 3, 2001. For the remainder of April 2001, the Support Group worked alone, condensing the list of potential recommendations for NEPDG discussion and recasting the chapters to fit the recommendations. During this period, the Support Group contacted agencies primarily to verify facts or rewrite specified sections of the report. Agency officials rejoined the process after April 30, 2001, when the Support Group released the draft chapters for final comment.

Staff from Multiple Federal Agencies Participated in the NEPDG Effort

The development of the *National Energy Policy* report involved hundreds of staff from nine federal agencies and several White House offices. Agencies had considerable latitude in determining how to staff their NEPDG assignments. Most agencies developed a multilevel, top-down process coordinated by the agency's lead NEPDG contact or Working Group member. Generally, the NEPDG Support Group forwarded specific writing assignments, information requests, meeting times and agendas to the agency contacts, who then disseminated the information to a coordination team. The coordination team distributed assignments to lead officials in offices or bureaus throughout the department. These officials then assigned staff to complete the tasks. When the completed work had interoffice concurrence, it was then passed back up the chain of command. The NEPDG agency staff contact then reviewed and approved all agency submissions before releasing them to the Principals, the Support Group, or other agencies for review or comment. Agency staff contacts also held regular update meetings with the coordination team and provided assorted updates and briefings to the agency Principal. Not all agencies experienced the same workload. For example, DOE, which was assigned the lead role in developing multiple chapters, had greater responsibilities, more meetings

[13]Declaration of Karen Y. Knutson, *Judicial Watch, Inc. v. NEPDG et al.*, No. 01-1530 (D.D.C.) (Sept. 3, 2002).

to attend, and larger efforts to coordinate than some other agencies, such as Interior, that played more of an advisory role. Frequent interaction also took place between agencies in developing the report chapters.

More than 80 DOE employees from eight departmental offices had direct input into the development of the *National Energy Policy* report, including science specialists and representatives with significant science expertise. DOE's Senior Policy Advisor to the Secretary led the department's internal effort to develop information for an interim and final report, and to identify policy recommendations for the report. The official joined the Acting Director of the then Office of Policy in periodic meetings with the Support Group staff and other agency officials to discuss drafts of specific chapters. In addition, the official joined DOE Office of Policy and program officials to relay comments from NEPDG meetings and to coordinate writing activities within DOE. The Acting Director of the Office of Policy, who was responsible for the day-to-day coordination and management of the process of producing DOE's contributions to the NEPDG effort, led a coordination team of senior managers from the department's Office of Energy Efficiency and Renewable Energy, Office of Nuclear Energy, Office of Fossil Energy, Office of Policy, Office of International Affairs, Energy Information Administration, and the Bonneville Power Administration. The team was charged with coordinating the writing of chapters, and each office formed a similar group within their areas of expertise to write its respective chapters. The Office of Policy took the lead on chapter 1 (*Taking Stock*), Energy Efficiency took the lead on chapter 4 (*Using Energy Wisely*) and chapter 6 (*Nature's Power*), and Fossil Energy took the lead on chapter 5 (*Energy for a New Century*). In addition, DOE contributed draft sections to chapters for which other agencies had been assigned the lead role. Each office developed recommendations and, after internal discussions, forwarded them for high-level review within DOE before they were released to the NEPDG Principals for review.

DOE staff researched historical information about energy and energy markets; identified key energy issues; examined and analyzed the current situation in energy markets; discussed likely energy issues, such as energy production, conservation and energy efficiency, energy prices, renewable and alternative energy sources, and national energy security; and prepared issue papers, memoranda, and talking points relating to these subjects. They also assisted with writing and reviewing drafts of report chapters, providing supporting statistical and other information, reviewing and responding to comments from other executive branch components, fact-

checking, developing citations and graphics, and briefing the Secretary on energy policy issues.

Interior was not assigned a lead role in writing any of the report chapters. The department's relationship with NEPDG, including the Working Group and Support Group staff, therefore consisted of the discussions at Principals' and Working Group meetings, comments on drafts, provision of an options paper, and responses to questions from NEPDG staff. To support the NEPDG effort, Interior's Office of Policy Analysis formed an energy task force comprised of 11 issue teams to examine opportunities to make more energy available from public lands and to streamline and improve various planning and permitting processes for facilitating energy development. Approximately 100 Interior employees, representing 13 departmental offices or bureaus, helped to develop information for the NEPDG effort. These teams helped develop an internal paper that agency officials used during Working Group discussions of other agencies' draft chapters.

EPA's general role was to ensure that environmental issues were accurately and adequately addressed and reflected in the development of the report. More than 110 EPA employees participated in the agency's internal NEPDG efforts. EPA's Associate Administrator for Policy, Economics, and Innovation served as the lead manager of the agency's NEPDG activities, overseeing its role in drafting the report chapter on the environment (*Protecting America's Environment*) and analyzing environmental issues contained in the other draft chapters of the report. This EPA official and two senior managers from the Office of Air and Radiation worked closely with senior staff from other offices within EPA and senior officials from other contributing agencies. The office leads circulated the draft to others, usually to staff within their particular office, as they deemed appropriate. The managers reviewed documents each time EPA staff prepared or revised them. Upon approval, EPA's draft was then conveyed to the Support Group.

Nonfederal Energy Stakeholders Contributed to the NEPDG Effort

The NEPDG Principals, Support Group, Working Group, and participating agency officials met with, solicited input from, or received information and advice from a variety of nonfederal energy stakeholders while developing the *National Energy Policy* report. According to our analysis of agency documents produced under court order, stakeholder involvement in the NEPDG process included private citizens offering general energy advice to the President, industry leaders submitting detailed policy recommendations to NEPDG, and individual meetings with Principals as

well as the Vice President. The extent to which submissions from any of these stakeholders were solicited, influenced policy deliberations, or were incorporated into the final report is not something that we can determine based on the limited information at our disposal. Nor can we provide a comprehensive listing of the dates or purposes of these meetings, their attendees, or how the attendees, when solicited, were selected, because of OVP's unwillingness to provide us with information.

The Principals met with a variety of nonfederal entities to discuss energy issues and policy. DOE reported that the Secretary of Energy discussed national energy policy with chief executive officers of petroleum, electricity, nuclear, coal, chemical, and natural gas companies, among others. The Secretary of Energy also reportedly asked nonfederal parties for their recommendations for short- and long-term responses to petroleum product price and supply constraints. Several corporations and associations, including Chevron, the National Mining Association, and the National Petrochemical & Refiners Association, provided the Secretary of Energy with detailed energy policy recommendations. EPA reported that agency managers—including the EPA Administrator—held many meetings with outside parties, where the issue of energy policy was raised. For example, according to the Administrator's schedule, the Administrator and agency staff met separately with the Alliance of Automobile Manufacturers, the Edison Electric Institute, and a group of environmental and conservation leaders. Interior reported that the Secretary of the Interior and staff attended meetings with private industry to discuss energy issues, including one meeting with Rocky Mountain-based petroleum companies interested in leasing federal lands and another meeting with an Indian tribe from Pyramid Lake, Nevada interested in building a power plant on its lands. In addition, in its response to a congressional inquiry, OVP reported that the Vice President met with the chairman and chief executive officer of Enron Corporation to discuss energy policy matters.[14] The Vice President also received a lobbying group's appeal to stop treating carbon dioxide as a pollutant and policy recommendations from a coalition of utilities, coal producers and railroads calling itself the Coal-Based Generation Stakeholders. We cannot determine the extent to which any of these communications with NEPDG Principals affected the content or development of the final report.

[14]David S. Addington, Counsel to the Vice President, to the Honorable Henry A. Waxman, U.S. House of Representatives (Jan. 3, 2002).

In response to another congressional inquiry,[15] the NEPDG executive director reported that the Support Group staff held meetings with individuals involved with companies or industries, including those in the electricity, telecommunications, coal mining, petroleum, gas, refining, bioenergy, solar energy, nuclear energy, pipeline, railroad and automobile manufacturing sectors; environmental, wildlife, and marine advocacy; state and local utility regulation and energy management; research and teaching at universities; research and analysis at policy organizations; energy consumers, including consumption by businesses and individuals; a major labor union; and about three dozen Members of Congress or their staffs. However, the NEPDG executive director did not specify the frequency, length, or purpose of the meetings, or how participants were selected to attend. In addition, OVP reported that the Support Group staff also met with numerous nonfederal stakeholders during the development of the final report, including a meeting with representatives of various utilities and two meetings with representatives of Enron Corporation.[16]

Finally, senior agency officials participated in numerous meetings with nonfederal energy stakeholders to discuss the national energy policy. Based on our analysis of the agency documents produced under court order, senior DOE officials, in addition to attending meetings with the Secretary of Energy, met with a variety of industry representatives, lobbyists, and energy associations, including the American Coal Company, Small Refiners Association, the Coal Council, CSX, Enviropower, Inc., Detroit Edison, Duke Energy, the Edison Electric Institute, General Motors, the National Petroleum Council, and the lobbying firm of Barbour, Griffith & Rogers. These senior DOE officials also solicited recommendations, views, or points of clarification from other parties. For example, one senior DOE official solicited detailed energy policy recommendations from a variety of nonfederal energy stakeholders, including the American Petroleum Institute, the National Petrochemical and Refiners' Association, the American Council for an Energy-Efficient Economy, and Southern Company. This official also received policy recommendations from others, including the American Gas Association, Green Mountain Energy, the National Mining Association, and the lobbying firms the Dutko Group and

[15]Responses of Andrew Lundquist, Executive Director for the National Energy Policy Development Group, to questions from the Ranking Minority Members of the House Committee on Government Reform and the House Committee on Energy and Commerce (May 4, 2001).

[16]Addington to Waxman (Jan. 3, 2002).

the Duberstein Group. Senior EPA officials, in addition to accompanying the Administrator to meetings with nonfederal energy stakeholders, discussed issues related to the development of an energy policy at meetings with the Alliance of Automobile Manufacturers, the American Public Power Association, and the Yakama Nation Electric Utility. Interior told us that senior agency officials met with nonfederal parties to discuss energy policy or other energy-related issues, but provided us with no further details about these meetings.

In addition to the meetings listed above, the agency documents reveal that the NEPDG Principals, Support Group, and agency staff received a considerable amount of unsolicited advice, criticisms, meeting requests, and/or recommendations from other parties, including private citizens; university professors; local, state, and international officials; regional energy stakeholders; and a variety of interest groups representing energy-related causes. Again, because of the limited information available to us, we cannot determine the extent to which these communications affected the content or development of the final report.

The *National Energy Policy* Report Was Developed in Two Distinct Phases

The *National Energy Policy* report was developed in two distinct phases, in accordance with the general criteria defined in the President's January 29, 2001, memorandum. The first phase involved the development of an outline; the distribution of research and writing assignments to participating agencies; and the development of narrative, topical chapters that ultimately formed the basis of the final report. The first phase culminated in a March 19, 2001, presentation to the President on energy supply disruptions and their regional effects. In the second phase, agency officials reviewed and finalized draft chapters; consolidated a list of options and recommendations and discussed them with the Working Group; and developed short position papers on each of the recommendations that the Working Group considered to be controversial. These papers served as the primary basis for discussion at subsequent Principals' meetings. After the final meeting of the Working Group on April 3, 2001, the Support Group took the provided materials under consideration and drafted the final report. Agency officials had a final opportunity to review the partial draft of the recommendations before the report was finalized, published, and presented to the President on May 16, 2001, as the *National Energy Policy.*

NEPDG Drafted Chapters and Prepared an Interim Report in the First Phase

In the first week of the administration, the Vice President worked with the soon-to-be-named NEPDG executive director to define the process for developing a proposed national energy policy. They decided that a group of senior federal officials would generate an interim report that would detail energy supply problems and a final report that would outline solutions. The President's memorandum, released on January 29, 2001, reflected this work plan.

In early February 2001, the NEPDG executive director distributed a memorandum at the first Working Group meeting detailing the group's mission, reporting requirements, and a proposed structure of seven targeted interagency workgroups to review specific issue areas. At the meeting, the Support Group named lead agencies to coordinate the development of each of the 10 assigned chapters.[17]

The Support Group tasked the lead agencies—DOE, DOT, EPA, Treasury, and the State Department—with developing a report outline for each of their assigned chapters to be forwarded to the White House for final approval. The Support Group instructed agencies to write chapters without proposing improvements, noting that the draft chapters would not be sent to the President, but would serve as the basis of a more detailed version that NEPDG would use when drafting the final report. While the drafting of chapters for the final report continued, the Support Group, Working Group, and participating agency staff focused much of their collective effort throughout February on developing sections of an interim report. The Support Group released the interim report to the Principals for review in early March 2001, then shifted its attention to the second phase of the process—finalizing the draft and making recommendations. The interim briefing, which took place at the White House on March 19, 2001, mostly consisted of oral presentations on the energy supply and demand situation and short-term regional energy supply disruptions.

NEPDG Selected Recommendations and Finalized the Report in the Second Phase

Immediately following the March 19, 2001, presentation of the interim report to the President, the Working Group met to refine the chapters of the final report and to discuss potential recommendations that agencies had accumulated. The Support Group provided the agencies with a copy of the Bush-Cheney energy-related initiatives developed during the presidential campaign, asking them to ensure that they incorporated these initiatives

[17]The number of chapters was later reduced from 10 to 8, as several chapters were consolidated during the writing process.

when developing their respective recommendations. They asked each agency in the Working Group to prepare an "option paper" that included proposals for streamlining energy production and steps to implement them.

In March 2001, the Working Group continued to develop chapters and discuss recommendations, and pared down each agency's list of potential recommendations. The Support Group prepared five one-page issue paper summaries of the recommendations that the Working Group considered to be controversial—a multi-pollutant strategy, fuel efficiency standards, energy efficiency, nuclear energy, and the moratoria on Outer Continental Shelf leasing—to the Principals for further discussion. Shortly before the April 3, 2001, Principals' meeting, the Support Group added a last-minute agenda item to be discussed with the other recommendations. The actual agenda item, however, had been redacted from the documents that we reviewed.

In early April 2001, the Support Group stopped accepting comments on the proposals and began sorting through them, asking agencies to incorporate what the Support Group deemed to be the less controversial recommendations into the draft chapters. For the remainder of April 2001, the Support Group mostly worked alone, selecting recommendations to present to NEPDG Principals and rewriting the chapters to fit the recommendations. The Principals met to discuss several of the potentially more controversial recommendations and to decide which proposals to add to the chapters. In some cases, agencies were told to rewrite sections of the chapters to incorporate the proposed recommendations.

The agencies continued to draft their chapters and incorporate various other agencies' comments until the Support Group issued a deadline and requested the final submission of chapters for editing. The Support Group then released the drafts to all of the agencies for a cursory review, informing agency officials that the drafts were now considered "final" and that only high priority comments would be accepted.

The Support Group asked agencies to protect their lists of proposed recommendations, instructing officials to hold all proposals closely and not to circulate them. The Support Group then sent the draft chapters to the agencies without any recommendations. On April 30, 2001, the Support Group invited each agency's Principal or chief of staff to visit the White House for an on-site review of the final draft recommendations. The Support Group continued to make last-minute alterations to the report to incorporate revised recommendations, called on the agencies to verify

facts and to provide citations, and ushered the final draft through the editing and printing processes. On May 16, 2001, the Vice President presented the final *National Energy Policy* report to the President. The final report contained over 100 proposals to increase the nation's energy supply. The presentation brought the *National Energy Policy* report development process to a close.

Federal Agencies Did Not Track the Amount of Public Money Spent on NEPDG Activities

None of the key federal entities involved in the NEPDG effort provided us with a complete accounting of the costs they incurred during the development of the *National Energy Policy* report. Several agencies provided us with rough estimates of their respective NEPDG-related costs; but these estimates, all calculated in different ways, were not comprehensive. The two federal entities responsible for funding the NEPDG effort—OVP and DOE—did not provide us with the comprehensive cost information we requested. OVP provided us with 77 pages of information, two-thirds of which contained no cost information, while the remaining one-third contained miscellaneous information of little to no usefulness. In response to our requests seeking clarification on the provided information, OVP stated that it would not provide any additional information. DOE, EPA, and Interior provided us with their estimates of costs associated with the NEPDG effort, which aggregated about $860,000. DOE provided us with selected cost information, including salary estimates, printing and publication costs, and other incidental expenses. EPA and Interior provided salary cost estimates for some of their senior officials involved in the report's development. DOE and Interior officials reported that although most of the identified costs were salary-oriented, employees had not specifically recorded the amount of time they had spent on NEPDG-related tasks because many of them already worked on energy policy and thus would have likely conducted a substantial portion of the work, even without the NEPDG project taking place. An Interior official cautioned us not to expect a precise estimate, noting that the estimate primarily had been based on employee recollection and guesswork.

DOE and OVP Were Responsible for Funding NEPDG Activities

In his January 29, 2001, memorandum that established NEPDG, the President instructed the Vice President to consult with the Secretary of Energy to determine the need for funding. DOE was to "make funds appropriated to the Department of Energy available to pay the costs of personnel to support the activities of the Energy Policy Development Group." The memorandum further stated that if DOE required additional

funds, the Vice President was to submit a proposal to the President to use "the minimum necessary portion of any appropriation available to the President to meet the unanticipated need" or obtain assistance from the National Economic Council staff.[18]

OVP Provided Limited Cost Information Responsive to Our Request Regarding NEPDG's Receipt, Disbursement, and Use of Public Funds

In response to our inquiry about the NEPDG's receipt, disbursement, and use of public funds, OVP provided us with 77 pages of "documents retrieved from the files of the Office of the Vice President responsive to that inquiry."[19] The Vice President later referred to these documents as "responsive to the Comptroller General's inquiry concerning costs associated with the Group's work."[20] Our analysis of the documents, however, showed that they responded only partially to our request.

The documents that OVP provided contain little useful information or insight into the overall costs associated with the National Energy Policy development. Of the 77 pages that we received, 52 contained no cost information while the remaining 25 contained some miscellaneous information of little to no usefulness. For example, OVP provided us with two pages illustrating a telephone template and four pages containing indecipherable scribbling, but no discernible cost information. OVP also provided documents that contained some miscellaneous information, predominantly reimbursement requests, assorted telephone bills and random items, such as the executive director's credit card receipt for pizza. In response to our requests seeking clarification of the provided information, OVP stated that it would not provide us with any additional information. Consequently, we were unable to determine the extent to which OVP documents reflected costs associated with the report's development.

DOE Did Not Comprehensively Track Overall NEPDG Costs

DOE reported spending about $300,000 on NEPDG-related activities, more than half of which was used for the salaries of its employees detailed to OVP and two designated DOE staff contacts for the period from January 29,

[18]Pres. Memorandum (Jan. 29, 2001).

[19]Letter from David Addington, Counsel to the Vice President, to Anthony Gamboa, General Counsel, the U.S. General Accounting Office (June 21, 2001).

[20]Letter from the Vice President to the U.S. House of Representatives (Aug. 2, 2001).

2001, through May 29, 2001. DOE reported spending most of the remaining funds to print and produce 10,000 policy publications and graphic support, pay for 16 large briefing boards, and reimburse the NEPDG executive director for his lodging and per diem expenses. DOE did not provide any information on the Support Group members' requests for the reimbursement of taxi, parking, meal, or duplicating expenditures contained in the 77 pages of OVP documents. However, DOE officials noted that the department did not pay for furniture, telephones, or other expenses that DOE employees on the Support Group may have incurred setting up their offices, saying that they assumed that the White House paid these costs.

EPA Provided Estimates of Its NEPDG-Related Salary Costs, but Did Not Include Its Incidental Expenses

EPA reported spending an estimated $131,250 in NEPDG-related costs to pay the salaries of the officials most involved in NEPDG activities. EPA officials calculated this estimate by taking the number of full-time equivalents, the officials' average annual salaries, and prorating the amount for the 3½ months they spent working on the NEPDG effort. EPA officials also reported that the agency incurred multiple incidental expenses in helping to prepare the NEPDG report, such as taxi fares, duplication costs, and courier fees, but they neither itemized these expenditures nor provided us with any further documentation.

Federal Employee Salaries Accounted for All of Interior's Reported NEPDG-Related Costs

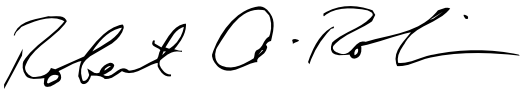
Interior reported spending an estimated $430,000 on salary-related costs associated with the NEPDG report development. It also reported that it did not incur any NEPDG-related contracting costs. The agency official who provided us with the estimate warned that although it was the best possible, its precision was uncertain because it had been based on employees' personal recollections and guesswork as to the amount of time they spent working on NEPDG-related activities. The official then added an additional 20 percent to the estimated sum to reflect the employee benefits that accrued during the period. Interior did not create a unique job code or accounting process to track the time that Interior employees spent on developing the NEPDG report. According to one official, many of the staff involved with the NEPDG effort already worked on energy policy for their respective bureaus or offices and thus a substantial portion of the work would likely have been conducted, even without the NEPDG project taking place.

Agency Comments

We provided DOE, Interior, and EPA with an opportunity to review and comment on a draft of this report. Representatives from each of these three agencies reviewed the report and chose not to provide written comments. Interior and EPA provided several technical clarifications orally, which we incorporated, as appropriate, into the final report. We also provided OVP with an opportunity to review and comment on our draft report, but the office did not avail itself of the opportunity.

We conducted our review from May 2001 through July 2003. We plan no further distribution of this report until August 25. On that date, we will send copies of this report to interested congressional committees. This report is also available on GAO's home page at http://www.gao.gov.

If you or your staffs have any questions about this report, please call me at (202) 512-3841. Key contributors to this report are listed in appendix I.



Robert A. Robinson
Managing Director, Natural Resources
and Environment

List of Congressional Requesters

Senate	House
The Honorable Joseph I. Lieberman[a] Ranking Minority Member Committee on Governmental Affairs United States Senate	The Honorable Henry A. Waxman Ranking Minority Member Committee on Government Reform House of Representatives
The Honorable Ernest F. Hollings[a] Ranking Minority Member Committee on Commerce, Science, and Transportation United States Senate	The Honorable John D. Dingell Ranking Minority Member Committee on Energy and Commerce House of Representatives
The Honorable Carl M. Levin[a] Ranking Minority Member Permanent Subcommittee on Investigations Committee on Governmental Affairs United States Senate	
The Honorable Byron L. Dorgan[a] Ranking Minority Member Subcommittee on Competition, Foreign Commerce, and Infrastructure[b] Committee on Commerce, Science, and Transportation United States Senate	

[a]At the time of their joint request to GAO, the four senators were chairmen of their respective committees or subcommittees.

[b]This subcommittee was formerly called the Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism.

GAO Contacts and Staff Acknowledgment

GAO Contacts

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Acknowledgment

In addition to the individuals named above, Doreen Feldman, Lynn Gibson, Richard Johnson, Bob Lilly, Jonathan S. McMurray, Susan Poling, Susan Sawtelle, Amy Webbink, and Jim Wells made key contributions to this report.

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September 2003

HUMAN CAPITAL: DHS Personnel System Design Effort Provides for Collaboration and Employee Participation

United States General Accounting Office

GAO

Report to Congressional Requesters

September 2003

HUMAN CAPITAL

DHS Personnel System Design Effort Provides for Collaboration and Employee Participation



GAO-03-1099

September 2003

HUMAN CAPITAL

DHS Personnel System Design Effort Provides for Collaboration and Employee Participation

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Highlights

Highlights of GAO-03-1099, a report to congressional requesters

Why GAO Did This Study

The success of the transformation and implementation of the Department of Homeland Security (DHS) is based largely on the degree to which human capital management issues are addressed. Recognizing this, the legislation creating DHS provided it with significant flexibility to design a modern human capital management system.

Congressional requesters asked GAO to describe the process DHS has in place to design its human capital system and involve employees, and analyze the extent to which this process reflects elements of successful transformations.

What GAO Recommends

As the process to develop and implement a new human capital system at DHS moves forward, we recommend that the Secretary of DHS and Director of OPM ensure that the human capital management system is designed to accomplish the mission, objectives, and goals of the department. In addition, we are recommending that the Secretary ensure that the communication strategy used to support the human capital system maximizes opportunities for employee involvement.

DHS and OPM commented on a draft of this report and generally agreed with its content. The report was revised to reflect agency comments.

www.gao.gov/cgi-bin/getrpt?GAO-03-1099.

To view the full product, including the scope and methodology, click on the link above. For more information, contact J. Christopher Mihm at (202) 512-6806, or mihmj@gao.gov.

What GAO Found

The effort to design a human capital management system for DHS generally reflects important elements of effective transformations.

- Leadership. One of the strengths of the effort to transform the culture of organizations going into DHS has been the on-going commitment of both DHS and Office of Personnel Management (OPM) leaders to stimulate and support the effort to design a human capital system.
- Strategic Goals. DHS is currently developing a strategic plan. Although DHS human resource leaders are included on the strategic planning team, it will not be complete until the end of September 2003. Consequently, DHS will need to ensure that the development of the human capital policy options is integrated with the accomplishment of DHS programmatic goals as defined in the forthcoming strategic plan. Such integration is important to ensure that the human capital system enables the department to acquire, develop, and retain the core competencies necessary for DHS to accomplish its programmatic goals.
- Key Principles. The DHS Secretary and OPM Director outlined four principles to serve as a critical framework for the human capital system. These principles appropriately identify the need to support the mission and employees of the department, protect basic civil service principles, and hold employees accountable for performance.
- Timeline. Agency officials established an ambitious 9- to 10-month timeline for completing the design process, aiming to issue final regulations in early 2004. Some DHS stakeholders we interviewed expressed concerns about the compressed schedule. Officials leading the design effort report the aggressive schedule is necessary to relieve employee anxiety and maximize the time available for implementation.
- Design Team. The design team includes staff from multiple organizational units within DHS, OPM, and the three major unions.
- Communication. DHS recently finalized a communication plan that provides a structured and planned approach to communicate with DHS stakeholders regarding the human capital system. Moving forward, DHS will need to provide adequate opportunities for feedback once the options are released.
- Employee Involvement. Employees are provided multiple opportunities to be included in the design process, including participation in the Core Design Team, the Town Hall meetings, the field team, the focus groups, and an e-mail mailbox for employee comments.

Experience has shown that in making major changes in the cultures of organizations, how it is done, when it is done, and the basis on which it is done can make all the difference in whether it is ultimately successful. The analysis of DHS's effort to design a human capital system can be particularly instructive in light of legislative requests for agency-specific human capital flexibilities at the Department of Defense and the National Aeronautics and Space Administration.

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Abbreviations

AFGE	American Federation of Government Employees
APHIS	Animal and Plant Health Inspection Service
CIA	Central Intelligence Agency
CPDF	Central Personnel Data File
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
FACA	Federal Advisory Committee Act
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Center
FTE	full-time equivalent
INS	Immigration and Naturalization Service
NAAE	National Association of Agricultural Employees
NASA	National Aeronautics and Space Administration
NSA	National Security Agency
NTEU	National Treasury Employees Union
OMB	Office of Management and Budget
OPM	Office of Personnel Management
TSA	Transportation Security Administration

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September 30, 2003

The Honorable George V. Voinovich
Chairman, Subcommittee on Oversight of Government
Management, the Federal Workforce, and the
District of Columbia
Committee on Governmental Affairs
United States Senate

The Honorable Jo Ann Davis
Chairwoman, Subcommittee on Civil Service and
Agency Organization
Committee on Government Reform
United States House of Representatives

The creation of the Department of Homeland Security (DHS) represents an historic moment for the federal government to fundamentally transform how the nation will protect itself from terrorism. DHS now has an opportunity—and a responsibility—to transform and integrate a disparate group of agencies with multiple missions, values, and cultures into a strong and effective cabinet department. Together with this unique opportunity, however, also comes significant risk to the nation that could occur if this transformation is not implemented successfully. In fact, we designated this implementation and transformation as high risk in January 2003.[1]

We convened a forum in September 2002 to identify useful practices and lessons learned from major public and private transformations that DHS and other federal agencies could use to inform transformation efforts.[2] While no two mergers or transformation efforts are exactly alike and the "best" approach depends on a variety of factors specific to each context, there was general agreement on a number of key practices. These practices include:

[1]U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Homeland Security*, GAO-03-102 (Washington, D.C.: January 2003).

[2]U.S. General Accounting Office, *Highlights of a GAO Forum: Mergers and Transformation: Lessons Learned for a Department of Homeland Security and Other Federal Agencies*, GAO-03-293SP (Washington, D.C.: Nov. 14, 2002).

1. **Ensure top leadership drives the transformation**. Leadership must set the direction, pace, and tone and provide a clear, consistent rationale that brings everyone together behind a single mission.

2. **Establish a coherent mission and integrated strategic goals to guide the transformation**. Together, these define the culture and serve as a vehicle for employees to unite and rally around.

3. **Focus on a key set of principles and priorities at the outset of the transformation**. A clear set of principles and priorities serves as a framework to help the organization create a new culture and drive employee behaviors.

4. **Set implementation goals and a timeline to build momentum and show progress from day one**. Goals and a timeline are essential because the transformation could take years to complete.

5. **Dedicate an implementation team to manage the transformation process**. A strong and stable team is important to ensure that the transformation receives the needed attention to be sustained and successful.

6. **Use the performance management system to define responsibility and assure accountability for change**. A "line of sight" shows how team, unit, and individual performance can contribute to overall organizational results.

7. **Establish a communication strategy to create shared expectations and report related progress**. The strategy must reach out to employees, customers, and stakeholders and engage them in a two-way exchange.

8. **Involve employees to obtain their ideas and gain their ownership for the transformation**. Employee involvement strengthens the process and allows them to share their experiences and shape policies.

9. **Build a world-class organization**. Building on a vision of improved performance, the organization adopts the most efficient, effective, and economical personnel, system, and process changes and continually seeks to implement best practices.

Building on the forum, we recently identified specific implementation steps for these key practices.[3] (See app. I). Many mergers do not live up to their potential. Research suggests that the failure to adequately address a wide variety of people and cultural issues is at the heart of unsuccessful mergers and transformations. Therefore, strategic human capital management must be at the center of a successful transformation effort. The legislation creating DHS provided it with significant flexibility to design a modern human capital management system.[4] Specifically, the department may deviate from requirements contained in Title 5 of the United States Code relating to performance appraisals, classification, pay rates and systems,[5] and adverse actions and appeals. However, the department may not deviate from other Title 5 provisions including the merit system principles, prohibited personnel practices, equal employment opportunity, civil service examination and selection, and pay administration.[6] In addition, for hiring employees, the department may take advantage of the governmentwide personnel reform measures contained in the Homeland Security Act of 2002, including using a category rating system when evaluating applicants for employment and selecting qualified applicants for positions using direct hiring procedures.[7] Regulations for the DHS human capital system are to be prescribed jointly by the Secretary of DHS and the Director of the Office of Personnel Management (OPM). The legislation also noted that it is the sense of the Congress that employees be involved in the creation of the new human capital system.

In light of the challenge to transform the organizations joining the department and establish a modern human capital management system, you asked that we undertake a series of human capital engagements to assist DHS in its implementation efforts. As agreed with your office, this is one of several reports we will issue that will track how DHS begins to make use of its new human capital authorities. Specifically, this report

[3]U.S. General Accounting Office, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations*, GAO-03-669 (Washington, D.C.: July 2, 2003).

[4]Public Law 107-296, Nov. 25, 2002.

[5]The department may not however modify Senior Executive pay or fix employee pay in excess of the limitation on aggregate compensation payable under 5 U.S.C. 5307.

[6]Pay administration provisions include premium pay rules.

[7]Interim regulations implementing these authorities were issued by OPM in the *Federal Register* on June 13, 2003. 68 *Fed. Reg.* 35265.

(1) describes the process DHS has in place to design its human capital system and involve employees and (2) analyzes the extent to which this process reflects what we have found to be important elements of successful transformations.

To address our objectives, we reviewed documents relevant to DHS's transformation and personnel system design effort and applicable laws and regulations. These included the April 2003 *Human Resources Systems Design Team Resource Book*, the weekly DHS newsletter, OPM data on DHS employees and unions, the June 2003 Communications Plan, and others. We interviewed officials from DHS and OPM headquarters who are involved in the effort to design the new human capital system. Human resource leaders from the five largest components within DHS were also interviewed – the Transportation Security Administration (TSA), Federal Emergency Management Agency (FEMA), the organizations formerly known as the Immigration and Naturalization Service (INS) and the U.S. Customs Service, and the U.S. Coast Guard – to learn their impressions of the design process. Interviews with officials from the three largest employee unions at DHS – the American Federation of Government Employees (AFGE), the National Treasury Employees Union (NTEU), and the National Association of Agricultural Employees (NAAE) – provided additional insights. We then analyzed the information gathered in light of seven of the nine transformation practices. Practice 6 was excluded from the analysis because the effort to design a human capital system includes the development of a performance management system and Practice 9 was excluded because developing an effective human capital system is one of many efforts required to become a world-class organization. We conducted our work in accordance with generally accepted government auditing standards between March and September 2003.

The description and analysis of DHS's effort to design a strategic human capital management system can be particularly instructive in light of legislation that requests additional authority for human capital management at the Department of Defense (DOD) and the National Aeronautics and Space Administration (NASA). We have consistently supported the need for government transformation and the concept of modernizing federal human capital policies, as underscored in recent testimonies and our January 2003 report which described why we find that strategic human capital management remains a governmentwide high-risk

area.[8] This effort can also prove instructive for future human capital management and reorganization efforts within specific units of DHS as the new department is implemented and transformed over time into a cohesive organization.

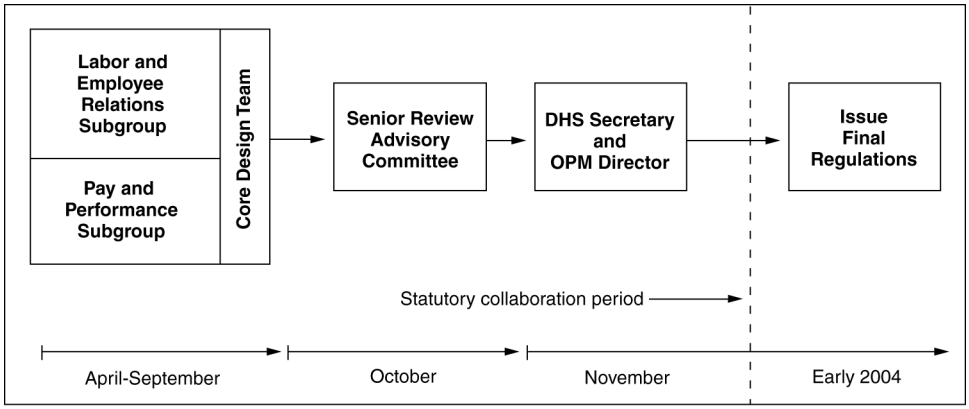
Importantly, while the design process used to develop the human capital system is significant, effective implementation of the system is similarly crucial to effective human capital management in the new department. In short, a successful design effort is essential to, but does not guarantee, effective implementation.

Results in Brief

DHS's and OPM's effort to design a new human capital system is collaborative and facilitates participation of employees from all levels of the department. The process is divided into three stages: research, outreach, and drafting of initial personnel system options; review of the options; and development of proposed regulations. First, the Core Design Team conducted research on human capital approaches, communicated with and gathered feedback from employees, and developed options. Second, the Senior Review Advisory Committee will review these options and forward its recommendations to the DHS Secretary and OPM Director. Third, the Secretary and Director will then propose draft regulations for the human capital system, engage in the statutory collaboration period, and issue final regulations by early 2004. The stages include employees from DHS and OPM, as well as representatives from the department's three largest unions. See figure 1.

[8]U.S. General Accounting Office, *Human Capital: Building on DOD's Reform Effort to Foster Governmentwide Improvements*, GAO-03-851T (Washington, D.C.: June 4, 2003); *High-Risk Series: Strategic Human Capital Management*, GAO-03-120 (Washington, D.C.: January 2003); and *Managing for Results: Using Strategic Human Capital Management to Drive Transformational Change*, GAO-02-940T (Washington, D.C.: July 15, 2002).

Figure 1: DHS Personnel System Design Process



Source: GAO.

This effort to design a human capital management system for DHS generally reflects what we have found to be important elements of effective transformations.

- Ensure top leadership drives the transformation. One of the strengths of the effort to transform the culture of organizations going into DHS has been the on-going commitment of both DHS and OPM leaders to stimulate and support the effort to design a human capital system.

- Establish a coherent mission and integrated strategic goals to guide the transformation. DHS is currently developing a strategic plan. Although DHS human resource leaders are included on the strategic planning team, the final plan will not be complete until late September 2003. Consequently, DHS will need to ensure that the development of the human capital policy options by the Core Design Team is integrated with the accomplishment of DHS programmatic goals as defined in the forthcoming strategic plan. Such integration is important to ensure that the human capital system enables the department to acquire, develop, and retain the core competencies necessary for DHS to accomplish its programmatic goals. Moving forward, it is essential that the Senior Review Advisory Committee, the Secretary, and the Director ensure that the new human capital system is aligned with the DHS strategic plan.

- Focus on a key set of principles and priorities at the outset of the transformation. The Secretary and Director outlined four principles

during the first design meeting in April that have served as a framework for the activities of the Core Design Team.[9] These principles appropriately identify the need to support the mission and employees of the department, protect basic civil service principles, and hold employees accountable for performance.

- Set implementation goals and a timeline to build momentum and show progress. Agency officials established an ambitious 9- to 10-month timeline for completing the design process, aiming to issue final regulations in early 2004. Some DHS component human resource directors and other stakeholders we interviewed expressed concerns about the compressed schedule. Officials leading the Core Design Team report the aggressive schedule is necessary to relieve employee anxiety and maximize the time available for implementation within the 5-year window outlined in the DHS legislation.

- Dedicate an implementation team to manage the transformation process. The membership of the design team includes participants from multiple organizational units within DHS, OPM, and the three major unions.

- Establish a communication strategy to create shared expectations and report related progress. DHS recently completed a noteworthy and substantive communication plan that provides a structured and planned approach to communicate with DHS stakeholders regarding the human capital system. The objectives of the plan are to: raise awareness, disseminate information, and promote a clear understanding of the new human capital system; manage stakeholder expectations and address their concerns; and provide opportunities for a two-way dialogue. Building on its current efforts, DHS will need to continue to provide adequate opportunities for feedback once the options are released, including providing an adequate level of detail on how the new system will impact employees.

- Involve employees to obtain their ideas and gain their ownership. Employees are provided with multiple opportunities to be included in the design process, including participation in the Core Design Team, the

[9]On July 25, 2003, the Core Design Team presented a set of five principles to the Senior Review Advisory Committee as a guide for developing the options to be presented in late September, building on the original four principles.

Town Hall meetings, the focus groups, the field team, and an e-mail mailbox for employee comments. Continued employee involvement is critical as options are identified, regulations are proposed, and the human capital system is implemented.

As the process to develop and implement a new human capital system at DHS moves forward, we are recommending that as the DHS strategic planning effort continues that the Secretary of DHS, in conjunction with the Director of OPM, ensure that the human capital management system is fully integrated with the accomplishment of the department's mission, objectives, and goals. We are also recommending that the Secretary of DHS build on the progress that has been made and ensure that the communication strategy used to support the human capital system maximizes opportunities for employee involvement through the completion of the design process, the release of the system options, and implementation, with special emphasis placed on seeking the feedback and buy-in of frontline employees in the field.

OPM provided written comments on a draft of this report, which are printed in appendix IV. DHS provided technical comments by e-mail.

DHS and OPM generally agreed with the contents of the report. However, both DHS and OPM expressed a concern that we misunderstood the role of the field team in the design process. Each described the role of the field team as more limited than our original understanding. While gathering additional information from DHS, NTEU, AFGE, and NAAE to clarify the role and activities of the field team, we learned that its role evolved over the course of the design effort, that it had no decision-making role in the design process, and that it was used as a recurring focus group. Accordingly, we changed the draft to reflect the field team's current role. DHS and OPM also provided a number of technical suggestions that have been incorporated where appropriate.

Background

The creation of DHS represents enormous leadership challenges, encompassing opportunities in multiple management areas. Sustained and inspired political and career leadership will be essential to successfully implementing the transformation of DHS. Success will also largely depend on its ability to attract and retain the right people; set the appropriate priorities for the department; and build effective partnerships with the appropriate public, private, and not-for-profit sector entities.

Mission and Organization of DHS

In establishing the new department, the Congress articulated a seven-point mission for DHS:

- Prevent terrorist attacks within the United States.
- Reduce the vulnerability of the United States to terrorism.
- Minimize the damage and assist in the recovery from terrorist attacks.
- Carry out all functions of entities transferred to the department, including by acting as a focal point regarding natural and man-made crises and emergency planning.
- Ensure that the functions of the agencies within the department that are not directly related to securing the homeland are not diminished or neglected.
- Ensure that the overall economic security of the United States is not diminished by efforts aimed at securing the homeland.
- Monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

DHS is generally organized into four mission-related directorates: Border and Transportation Security, Emergency Preparedness and Response, Science and Technology, and Information Analysis and Infrastructure Protection.

- The Border and Transportation Security directorate consolidates the major border security and transportation operations under one roof, including the U.S. Customs Service, parts of the Immigration and Naturalization Service (INS), the Transportation Security Administration (TSA), the Federal Law Enforcement Training Center (FLETC), The Federal Protective Service, the Office for Domestic Preparedness from the Department of Justice (DOJ), and part of the Animal and Plant Health Inspection Service (APHIS).
- The Emergency Preparedness and Response directorate integrates domestic disaster preparedness training and government disaster response and includes the Federal Emergency Management Agency (FEMA), the Strategic National Stockpile and the National Disaster

Medical System, the Nuclear Incident Response Team, the Domestic Emergency Support Teams from DOJ, and the National Domestic Preparedness Office from the Federal Bureau of Investigation (FBI).

- The Science and Technology directorate coordinates scientific and technological advantages when securing the homeland and will include CBRN Countermeasures Programs, the Environmental Measurements Laboratory, the National Bio-Weapons Defense Analysis Center, and the Plum Island Animal Disease Center.

- The Information Analysis and Infrastructure Protection directorate accesses and analyzes intelligence, law enforcement data, and other information involving threats to homeland security and evaluating vulnerabilities from state and local agencies, the private sector, and federal agencies such as the Central Intelligence Agency (CIA), FBI, and the National Security Agency (NSA). It includes the Critical Infrastructure Assurance Office, the Federal Computer Incident Response Center, the National Communications System, the National Infrastructure Protection Center, and the energy security and assurance program activities of the Department of Energy.

In addition to the four mission-related directorates, the U.S. Secret Service and the U.S. Coast Guard remain intact as distinct entities in DHS; INS adjudications and benefits programs report directly to the Deputy Secretary as the Bureau of Citizenship and Immigration Services; and the Management Directorate is responsible for budget, human capital, and other general management issues.

DHS's People

DHS has approximately 155,000 civilian positions and 54,000 military positions in the U.S. Coast Guard, for a total of just over 209,000.[10] (See

[10]Based on positions transferred to DHS as of March 8, 2003, according to DHS, and GAO calculations using data from the Central Personnel Data File (CPDF) as of March 31, 2003. Additional positions were scheduled to transfer to the department after this date. Positions include full-time, part-time, and vacant, and do not represent full-time equivalent (FTE) employment or the total number of employees on board. The DHS-provided data are based on determination orders, but one DHS official acknowledged that the data were compiled differently by the various components. Furthermore, these data are preliminary and are expected to be adjusted based on continuing negotiations between DHS and other federal agencies. DHS was authorized 144,901 civilian FTEs and 37,074 military FTEs in the fiscal year 2003 budget, according to DHS. As of March 31, 2003, DHS had 160,201 full- and part-time civilian employees on board, according to CPDF.

table 1.) Of the civilian employees, a vast majority transferred from seven organizations: TSA, INS, Customs, FEMA, the U.S. Coast Guard, the U.S. Secret Service, and APHIS. Of the civilian employees who transferred from these seven organizations, approximately 90 percent are stationed outside the Washington, D.C. metropolitan area. DHS employees work in over 300 metropolitan statistical areas.

Table 1: Positions Transferred to DHS as of March 8, 2003

Originating Department	Originating Agency	Positions Transferred[a]
Agriculture	Import and Entry Inspection[b]	2,655
Commerce	Critical Infrastructure Assurance Office	50
Defense	National Communications System	105
Department of Energy		101
Federal Emergency Management Agency		8,542
General Services Administration		1,713
Health and Human Services		91
Justice	Immigration and Naturalization Service	36,769
Justice	Other	385
Transportation	United States Coast Guard[c]	60,403
Transportation	Transportation Security Administration	68,859
Transportation	Other	40
Treasury	United States Customs Service	22,028
Treasury	United States Secret Service	6,251
Treasury	Federal Law Enforcement Training Center	922
Treasury	Other	191
Total		**209,105**

Source: DHS.

[a]This column reflects positions - full-time, part-time, and vacant - and does not represent FTE employment or the total number of employees on board.

[b]This represents a specific function from APHIS that was transferred to DHS.

[c]This represents both civilian and military U.S. Coast Guard positions.

These employees serve in positions ranging from inspectors, investigators, police, and intelligence to attorneys and administrative services. DHS

employees are compensated under multiple pay and benefits systems, are hired using varied authorities, and undergo performance appraisals with different rating scales and factors.

According to OPM, just over 49,000, or just under one-third, of DHS civilian employees are represented by unions. This includes 16 different unions divided into 75 separate bargaining units. The 3 unions representing the largest number of employees are AFGE, NTEU, and NAAE. AFGE represents almost 33,000 employees who were transferred from INS, the U.S. Coast Guard, FEMA, and others. NTEU represents over 12,000 employees who were transferred largely from Customs. NAAE represents just over 2,000 employees who were transferred from APHIS.

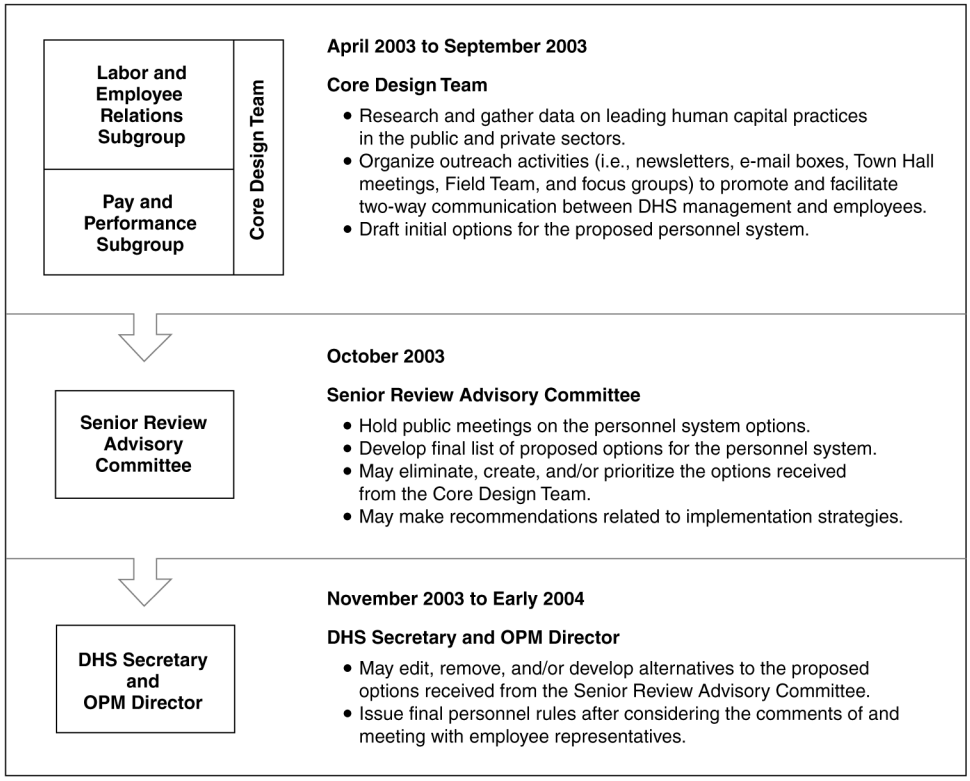
Design Process Provides for Collaboration

DHS's and OPM's effort to design a new human capital system is collaborative and facilitates participation of employees from all levels of the department. The process is divided into three stages: research, outreach, and drafting of initial personnel system options; review of the options; and development of proposed regulations. First, the Core Design Team conducted research on human capital approaches, communicated with and gathered feedback from employees, and developed options. Second, the Senior Review Advisory Committee will review these options and forward its recommendations to the DHS Secretary and OPM Director. Third, the Secretary and Director will then propose draft regulations for the human capital system, engage in the statutory collaboration period, and issue final regulations by early 2004. The stages include employees from DHS and OPM, as well as representatives from the department's three largest unions. This process is described in further detail in appendix II.

As figure 2 shows, the Core Design Team, the first stage of the design process, is responsible for research, outreach, and drafting initial options for the personnel system. This group is led by an equal number of DHS and OPM executives. Members of the Core Design Team, which includes employees from headquarters, the field, and unions, are full-time participants who work on one of two subgroups: (1) pay and performance or (2) labor and employee relations—reflecting the areas of Title 5 from

which DHS may deviate.[11] The work of the Core Design Team is to result in a broad range of options for the Senior Review Advisory Committee by late September 2003.

Figure 2: The Three Stages of the Design Process and Their Roles



Source: GAO.

The second stage of the design process is made of the Senior Review Advisory Committee. The committee's members include top executives from DHS, OPM, and the three major unions and they are advised by a team of external human capital experts. The committee is provided less than a month to review the system options and forward its iteration for the

[11]The Homeland Security Act of 2002 gives DHS authority to deviate from the requirements of: Chapter 43 – performance appraisal; Chapter 51 – classification; Chapter 53 – pay rates and systems (except certain provisions); Chapter 71 – labor-management and employee relations; Chapter 75 – adverse actions; and Chapter 77 – appeals.

Secretary and Director to consider.[12] The committee's time frame for completing this task is October 2003. During the committee's public deliberations, they may choose to eliminate, create, and/or prioritize the options, or may recommend implementation strategies.

Once the Secretary and Director receive the list of options from the Senior Review Advisory Committee, they may edit, remove, or develop alternatives to the proposed options as the third stage of the design process. They expect to announce the proposed regulations in November 2003, which will trigger the statutory collaboration process so final regulations can be issued in early 2004. As called for in the legislation, employee representatives have 30 calendar days to comment and make recommendations. The Secretary and Director are then to follow the provisions of the statutory reconciliation process for no less than 30 days.[13]

DHS and OPM Leadership Stimulates and Supports the Human Capital Transformation

DHS and OPM leaders have consistently underscored their personal commitment to the design process and speak openly in support of it. When the DHS legislation was under consideration, we testified that the single most important element of successful reorganizations is the sustained commitment of top leaders.[14] In our report that describes the key practices for successful mergers and transformations, we note that top leadership that is clearly and personally involved provides stability and an identifiable source for employees to rally around during tumultuous times. The role of top leaders is also to ensure that transformation efforts stay on course by setting priorities, focusing on critical issues, and demonstrating a commitment to change.

[12]An informal "planning committee," or small working group of DHS, OPM, and union senior executives was assembled to provide staff support, highlight issues for discussion during public meetings, and potentially to set the meeting agendas for the Senior Review Advisory Committee.

[13]Section 841 of the Homeland Security Act establishes a process for collaboration with employee representatives to provide notice of the proposed human resources management system, the opportunity to submit comments, and consultation over the recommendations made.

[14]U.S. General Accounting Office, *Homeland Security: Proposal for Cabinet Agency Has Merit, But Implementation Will be Pivotal to Success*, GAO-02-886T (Washington, D.C.: June 25, 2002).

DHS and OPM leaders are fulfilling these critical roles. For example, the DHS Under Secretary for Management and OPM's Senior Advisor for Homeland Security cochair the Senior Review Advisory Committee. Other committee members are officials in key leadership positions at both OPM and DHS and the presidents of the three major unions.

Senior officials from DHS, OPM, and DHS's three largest unions are directly involved in the workings of the Core Design Team. Top leaders of DHS and OPM addressed employees at the Town Hall meetings, expressing their support for the transformation, and solicited feedback from those employees. Specific examples include the Under Secretary for Management writing to DHS employees in April and May 2003 to express her support of the design process and participating in a Town Hall meeting. Additionally, the Under Secretary for Border and Transportation Security participated in several Town Hall meetings to express his on-going support of the design process and to respond to questions from DHS employees. The Under Secretary for Emergency Preparedness and Response and the Commandant of the U.S. Coast Guard also participated in Town Hall meetings. At these meetings, union leaders have stood next to the agency leadership to express their support for the process, according to agency officials. Similarly, OPM's Associate Director for Strategic Human Resources Policy and OPM's Senior Advisor for Homeland Security also addressed DHS employees at Town Hall meetings, and responded to their questions.

DHS Personnel System will Need To Be Integrated with Mission and Program Goals

DHS will need to ensure that the development of the human capital policy options by the Core Design Team is integrated with the accomplishment of DHS programmatic goals as defined in the forthcoming strategic plan. Agency officials indicate that it is their intention that the personnel system design will be consistent with the strategic plan. We have reported, and the President's Management Agenda reiterates, that leading organizations develop their workforce approaches as part of a strategic human capital plan as strategies for accomplishing their mission and programmatic goals. In light of this, we previously stated that the success of the DHS transformation requires the department to link its human capital strategy with its homeland security strategy.[15]

[15]GAO-03-102; and U.S. General Accounting Office, *Homeland Security: Management Challenges Facing Federal Leadership*, GAO-03-260 (Washington, D.C.: Dec. 20, 2002).

DHS is currently developing a strategic plan. This effort began in mid-June and is expected to be completed by the end of September 2003 – a target set by the Office of Management and Budget (OMB). As explained previously, the Core Design Team began its work in late April 2003 and expected to report its proposed options in late September 2003. According to a DHS official leading the strategic planning effort, human capital officials are engaged in drafting the strategic plan. DHS human capital officials confirmed that they have reviewed drafts of the strategic plan.

Moving forward, it is critical that the Senior Review Advisory Committee, the Secretary, and the Director make the link between the new human capital system and the accomplishment of DHS's goals as outlined in the DHS strategic plan. Once a strategic plan is in place, DHS can then develop a strategic human capital plan that, in part, identifies core competencies for staff as a tool for attracting, developing, and rewarding contributions to mission accomplishment. For example, these competencies will be critical to creating a performance management system – a key task of the Core Design Team - that aligns daily operations with organizational goals and creates a "line of sight" and shows how team, unit, and individual performance can contribute to organizational results. We recommended that DHS, in conjunction with OPM and OMB, create an effective performance management system in December 2002.[16] Furthermore, if DHS decides to design and implement a pay-for-performance system, a set of strategic goals and validated competencies will be required so that DHS can identify the outcomes and results that employees are to be rewarded for accomplishing.

Process Steered by Guiding Principles

The Secretary and Director outlined four principles to serve as a framework for the Core Design Team during their first meeting in April:

- The system has to support both the mission and the people charged with implementing the mission.

- Design Team members must leave preconceived notions at the door. They have an opportunity and responsibility to create a 21st century personnel system that is fair, performance based, and flexible.

[16]GAO-03-260. We recently outlined key practices for effective performance management systems in *Results-Oriented Cultures: Creating a Clear Linkage Between Individual Performance and Organizational Success*, GAO-03-488 (Washington, D.C.: Mar. 14, 2003).

- DHS must preserve and protect basic civil service principles.

- DHS must hold people at all levels accountable for performance. The agency will link individual performance to organizational goals, with the ability to identify and reward exceptional service and deal with chronic poor performance. DHS can be a department that stands as a model of excellence.

These principles can serve as core values for human capital management at DHS – values that define the attributes that are intrinsically important to what the new organization does and how it will do it. Furthermore, they represent the institutional beliefs and boundaries that are essential to building a new culture for the organization. Finally, they appropriately identify the need to support the mission and employees of the department, protect basic civil service principles, and hold employees accountable for performance.

On July 25, 2003, the Core Design Team presented a set of five principles to the Senior Review Advisory Committee as a guide for developing the options to be presented in late September. These principles were drafted by the Core Design Team and reviewed by the field team, using the original four principles proposed by the Secretary and Director as a guide. The five principles are to ensure that the options developed are (1) mission centered, (2) performance focused, (3) contemporary and excellent, (4) generate respect and trust, and (5) based on merit system principles and fairness.

Consistent with the principles outlined by the Secretary and Director and those presented to the Senior Review Advisory Committee, our interviews with the human resource leaders in the five largest DHS components identified two areas that they would like the new human capital system to address: the new DHS personnel system should provide for competitive, performance-based pay and should give managers the ability to quickly hire the right people with the skills the agency needs. First, individuals we interviewed hoped that the new system would address their concerns about the disparities in pay rates across DHS and expressed an interest in implementing performance-based pay, linked to the accomplishment of

DHS's mission, such that employees are more accountable.[17] Two indicated that they would like the Core Design Team to propose legislation to address the differences in premium pay that currently exist. Second, and beyond the immediate task of the Core Design Team, there was an overwhelming interest in simplifying the hiring process.[18] Officials in one component expressed their discontent with the amount of time between when a position is announced and when it is actually filled. One executive expressed an interest in more flexibility in hiring because the perception is that the current hiring process is only understandable to those already in the federal government.[19]

Ambitious Timeline Established

DHS and OPM established a 9- to 10-month timeline for completing the design process with the expectation that the final regulations will be issued in early 2004. Agency officials have publicized this timeline at Town Hall meetings across the country. Our reports on the successful practices of mergers and transformations have noted that the establishment of a timeline with specific milestones allows stakeholders to track the organization's progress towards its goals. Publicizing the timeline and meeting its milestones can illustrate building momentum and demonstrate that real progress is being made.

The design process officially began in early April 2003 when the Core Design Team convened for a 2-week leadership conference to learn about the various human capital management systems within the component agencies as well as those in other federal agencies and private firms. The Core Design Team began its research full time in late April. This team is expected to present its broad range of options to the Senior Review

[17]We have recently reported on leading practices in performance management and performance-based pay. For example, see U.S. General Accounting Office, *Human Capital: Building on the Current Momentum to Address High-Risk Issues*, GAO-03-637T (Washington, D.C.: Apr. 8, 2003); and GAO-03-488.

[18]As stated previously, the department may not deviate from the Title 5 provisions regarding civil service examination and selection procedures. However, DHS has the opportunity to address some of its hiring concerns through governmentwide human capital reform provisions in the Homeland Security Act of 2002, which allow for category-based rating and selection procedures and the ability to use direct-hire procedures.

[19]We have recently reported on major challenges in the federal hiring process. For more information, see U.S. General Accounting Office, *Human Capital: Opportunities to Improve Executive Agencies' Hiring Processes*, GAO-03-450 (Washington, D.C.: May 30, 2003).

Advisory Committee in late September 2003. The Senior Review Advisory Committee is allotted less than a month to develop its set of options in October 2003. The Secretary and Director will then select the options that will be submitted as officially proposed regulations available for comment. They expect to announce the proposed regulations in November 2003, which will trigger the statutory collaboration process so final regulations can be issued in early 2004.

Although the establishment of a clear timeline is positive, a majority of DHS stakeholders we interviewed expressed concerns about its compressed schedule. There is some understanding that the timeline reflects an effort to take into account the final regulations in preparing the fiscal year 2005 budget that is submitted to the Congress in early 2004. However, a number of human resource directors said the "self-imposed, short" timeline would pose significant challenges for the Design Team. One director commented that the timeline was "ambitious" considering the amount of information that needs to be collected and analyzed. Most directors agreed that the lack of sufficient time to perform these tasks could prevent the Design Team from completing its work or cause it to propose options that had not been thoroughly researched. Furthermore, another stakeholder suggested that the timeline appears to allocate too much time to the development of options and not enough time to the consideration of which options to adopt. On the other hand, DHS and OPM leaders of the design effort agree that the timeline is aggressive, but said that a shorter time frame will serve to minimize employee anxiety. In addition, they said a tight design time frame is needed to provide adequate time for implementation, evaluation, and modification within the 5-year statutory window available for establishing the new system.

While it is appropriate to develop and integrate the human capital systems within the department in a quick and seamless manner so that the department can begin to function as a cohesive entity, moving too quickly or prematurely can significantly raise the risk of doing it wrong. Having an ambitious timeline is reasonable only insofar as it does not impact the quality of the human capital system that is created.

Design Participants Represent a Mix of DHS and OPM Employees

Overall, the members of the Core Design Team represent multiple organizational components and the three major unions. The composition of the team is important because of the visual sign it communicates regarding which components are dominant and subordinate or whether the new organization is a "merger of equals." It also helps employees see that they are being represented and that their views are being considered in the decision-making process.

The 48 participants of the Core Design Team include personnel experts from OPM, DHS and its component agencies, line employees and managers from DHS headquarters and field offices; and professional staff from the three major unions.[20] Specifically, the Core Design Team is composed of 24 DHS employees, 16 employees from OPM, and 8 professional staff from the unions. This includes 27 staff members, 5 supervisors, 12 managers, and 3 executives.[21] Additionally, just over 60 percent of the members consider themselves human capital professionals,[22] and about two-thirds have experience outside headquarters.[23] (See figs. 3 and 4.) The majority of human resource officials we interviewed consider themselves to be adequately represented on the Core Design Team. Other characteristics of the team members are described in appendix III.

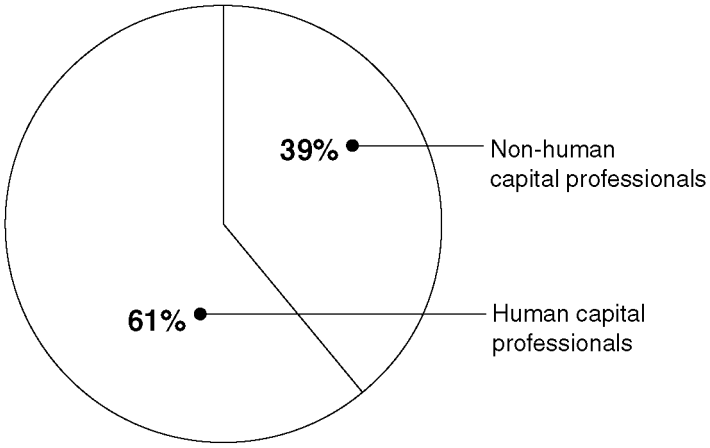
[20]This summarizes data for those members on board as of July 11, 2003. Since that date, membership has changed.

[21]Based on complete data for 47 participants.

[22]Based on complete data for 46 participants.

[23]Based on complete data for 39 participants.

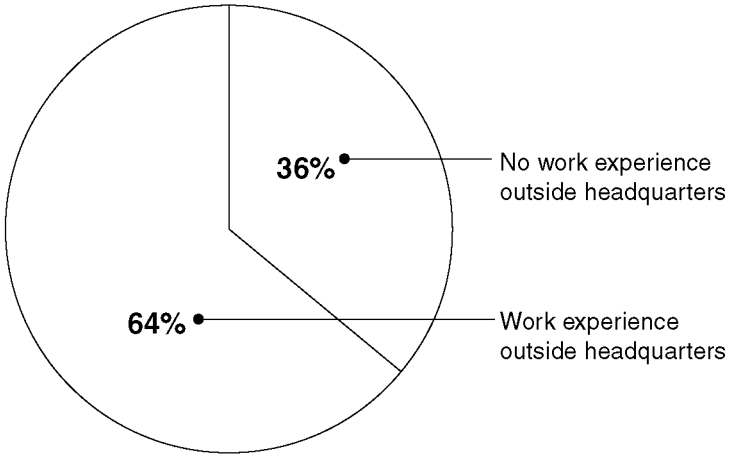
Figure 3: Core Design Team Members Who Describe Themselves as Human Capital Professionals[a]



Source: GAO.

[a]Based on complete data for 46 participants.

Figure 4: Percent of Core Design Team Members with Work Experience Outside Headquarters[a]



Source: GAO.

[a]Based on complete data for 39 participants.

According to DHS officials, DHS-specific slots on the Core Design Team were filled by individuals chosen by agency executives after determining the number of seats to be allocated to the different agency components. In

selecting team members, officials sought representation from across the organizational components of the department, individuals with field experience, and individuals with some expertise in human resources management. Race, gender, and occupational diversity were other factors considered when selecting participants. Additionally, NAAE selected one DHS employee to participate on the team and AFGE and NTEU each selected four professional staff members to participate.

Communications Plan Recently Completed

DHS recently completed a noteworthy communications strategy that provides a structured and planned approach to communicate with DHS stakeholders regarding the human capital system. The objectives of the plan are to: raise awareness, disseminate information, and promote a clear understanding of the new human capital system; manage stakeholder expectations and address their concerns; and provide opportunities for a two-way dialogue. We have recently reported that organizations undergoing a transformation should establish a communication strategy that ensures a consistent message is delivered and seeks to genuinely involve stakeholders in the process.

The communications plan, completed in June 2003, represents an important and substantive effort and contains four broad pieces that are consistent with the key practices we have identified as important to successful communication during transformations. First, the plan identifies internal and external stakeholders, the concerns of each stakeholder group, and the specific communication channels to be used to communicate to that stakeholder group. Second, the plan articulates the key messages to be delivered to each stakeholder group. Third, an action plan identifies the communication channel to be used, the timeline for its use, and the DHS and OPM staff responsible for implementation. Finally, the plan identifies the feedback mechanisms to be used to ensure there is a two-way dialogue.

Moving forward, DHS faces some challenges in successfully implementing its communications plan. First, in addition to the key messages articulated in the plan, DHS will need to provide information to clarify areas of confusion that were identified during our interviews. These include:

- the roles OPM, DHS, and the Senior Review Advisory Committee have in the process;

- the factors that will influence the Secretary and Director's final decisions on which options to propose;

- the role of the contractor in the design process;

- the likelihood of the Core Design Team drafting legislative proposals for areas DHS does not have authority to change (i.e., premium pay and hiring);

- the possibility of there being multiple personnel systems instead of one; and

- the implementation process.

A second challenge will be to ensure that preexisting communication channels within each departmental component deliver a message that is consistent in tone and content with the central communication strategy. We learned from three of the five components we interviewed that they use additional vehicles for providing and receiving information from employees. It may be appropriate to coordinate the messages sent to employees through these additional vehicles to minimize the perception that certain groups of employees are getting the "real" story.

Building on the current effort, DHS will need to provide adequate opportunities for feedback once the options are released, including providing an adequate level of detail on how the new system will impact employees. The feedback mechanisms identified in the communications plan focus on gathering employee feedback prior to the options being released. For example, two of the three feedback mechanisms outlined in the communications plan will be completed before the system options are publicized. DHS also needs to ensure effective communication to employees and stakeholders after the options are released. For example, DHS should consider describing to employees how the comments collected during the Town Hall meetings and focus groups informed the design process. Furthermore, once options are selected, DHS will be faced with communicating how the changes will impact specific jobs, rights and protections, and daily responsibilities. DHS may find it necessary to further tailor and customize the details of the new human capital system to meet the specific needs of employees.

Design Process Provides for Employee Involvement

Employee perspectives on the design of the DHS human capital system are sought through many mechanisms, including the Core Design Team with its members from multiple DHS components, Town Hall meetings, focus groups, the field team, and an e-mail mailbox for employee comments. This reflects the Congress' desire that employees be allowed to participate in a meaningful way in the creation of the new human capital system. Involving employees in planning helps to develop agency goals and objectives that incorporate insights about operations from a front-line perspective. It can also serve to increase employees' understanding and acceptance of organizational goals and improve motivation and morale.

The design process attempts to include employees by creating multiple opportunities for employees to provide feedback. While activity updates were provided in the DHS weekly newsletter and an e-mail mailbox for employees to submit their suggestions and comments was used, multiple Town Hall meetings and focus groups conducted between the end of May and the beginning of July 2003 were held in ten cities across the United States.[24] According to DHS and OPM officials, these cities were chosen to ensure adequate representation of major DHS components and geographic diversity. The goal of the events was to promote two-way communication between management and employees and to gather employee perspectives on the personnel practices that exist in their agency and any proposed changes they would like to see. Each meeting hosted up to 200 DHS employees from the surrounding cities.

At a typical Town Hall meeting, there was a general question and answer segment in which local employees had the opportunity to ask questions about the new system and express their overall concerns about DHS. If participants' questions could not be addressed during the meeting due to time constraints, they could write their questions on note cards and give them to cognizant DHS and OPM officials in attendance. After the meeting, the Core Design Team held a series of six focus group sessions in each city to obtain their input and suggestions for the new human resource system. In most cities, five of the six sessions were devoted to hear employees' views while the remaining session heard the views of supervisors and managers. Participants in the focus groups included both Town Hall

[24]The ten cities were Atlanta, Georgia; Detroit, Michigan; El Paso, Texas; Los Angeles, California; Miami, Florida; New York, New York; Norfolk, Virginia; Seattle, Washington; Washington, D.C.; and Baltimore, Maryland.

meeting attendees and those who were not able to attend the Town Hall session.

The degree to which the information gathered in these sessions was used to inform the design process is not yet evident. On one hand, the Town Hall meetings and focus groups gathered suggestions and concerns from large numbers of employees from multiple organizational components in geographically diverse locations. However, once options for the human capital system are proposed it will be particularly important that employees have adequate opportunities to make a worthwhile contribution.

In addition to the Town Hall meetings and focus groups, a field team made of 32 front-line DHS managers and staff, some of whom were selected by the major unions, was formed. During the design process, the field team provided insights about the department's human capital challenges from a front-line perspective. These insights were gathered during the three meetings of the group -- the field team was convened during the first week of the 2-week April leadership conference, 2 days in July to react to the subgroups' research, and for 2 days again in mid-September to react to the draft personnel system options before their submission to the Senior Review Advisory Committee in late September.

According to documents drafted before the April leadership conference, provided by AFGE and NAAE, it was originally expected that the field team would review the work of the Core Design Team on a "regular basis" and then be used to "test the options against workplace realities." One stakeholder added that it was his initial impression that the field team would serve as an "extension of the Core Design Team," empowered to provide input throughout the entire design process. However, over time, the expected role of the field team evolved to that of a recurring focus group that had no formal decision-making role in the design process. Likewise, as the role for the field team evolved, so did its membership – additional nonunionized DHS employees were added to the team. One DHS official acknowledged that the field team has not had a great deal of involvement in the process, and that the expected role of the team changed over time. Officials in NTEU, AFGE, and NAAE additionally confirmed that the role of the field team changed over time. One union president described the diminished role as a "missed opportunity." This official added that the lack of involvement and minimal communication with the Core Design Team has made it difficult for the field team to make a worthwhile contribution.

Conclusions

DHS and OPM have developed a process to design the new personnel system that is stimulated and supported by top leadership in both organizations and is generally inclusive, both in terms of the membership of the Core Design Team and multiple opportunities to provide input. The process is also guided by core principles and an ambitious timeline. Our research shows that these key attributes are indispensable to successful transformations. This design process provides a model for DHS to consider as it makes other important decisions about the implementation and transformation of the department.

Building on this progress, DHS will need to ensure that the development of the human capital policy options by the Core Design Team is integrated with the accomplishment of DHS programmatic goals as defined in the forthcoming strategic plan. Such a linkage can ensure that the new human capital approaches support and facilitate the accomplishment of DHS's goals and objectives – a fundamental principle of the human capital idea. It will also assist the Core Design Team in identifying human capital programs that support the DHS mission, including the development of a performance management system which creates a "line of sight" that shows how team, unit, and individual performance can contribute to overall organizational goals.

Additionally, DHS has acknowledged that work lies ahead for implementing better, more effective ways to communicate with and receive feedback from its employees. The development of the communications plan is an important and positive step. As DHS implements this plan it will need to provide information on areas of confusion that were identified during our interviews, including clarifying the role of DHS versus OPM in the system development. DHS will also need to ensure that a consistent message is communicated across DHS components. Finally, effective communication, characterized by a two-way dialogue, will be central to engaging employees in the remainder of the design process and ensuring it is transparent. Ultimately, an effective two-way communication strategy can ease implementation efforts. Once options for the human capital system are proposed it will be particularly important that employees have adequate opportunities to make a worthwhile contribution. Substantial involvement of field staff in the development and implementation of the new human capital system is essential given that over 90 percent of DHS civilian employees are in the field. Continued employee involvement will help to strengthen employee buy-in to the new human capital system. It is

important to consider and use the solicited employee feedback to make any appropriate changes once this feedback is received.

Recommendations for Executive Action

DHS has developed an effective process to begin the formation of its new human capital system. Moving forward, it is critical that the new human capital system be linked to the DHS strategic plan and that DHS continue to communicate with and involve its employees. Accordingly, we are recommending that once the strategic plan is completed the Secretary of DHS and the Director of OPM ensure that the options selected for the new human capital system support and facilitate the accomplishment of the department's strategic goals and objectives, as identified in the new strategic plan. In addition, we recommend that the Secretary of DHS clarify the role of the participants in the design effort and other areas of confusion identified by stakeholders during our interviews. Furthermore, consistent with the DHS communications plan, we recommend the Secretary ensure the message communicated across DHS components is consistent, and maximize opportunities for two-way communication and employee involvement through the completion of the design process, the release of the system options, and implementation, with special emphasis placed on seeking the feedback and buy-in of front-line employees in the field.

Agency Comments and Our Evaluation

OPM provided written comments on a draft of this report, which are printed in appendix IV. DHS provided technical comments by e-mail.

DHS and OPM generally agreed with the contents of the report. However, both DHS and OPM expressed a concern that we misunderstood the role of the field team in the design process. Each described the role of the field team as more limited than our original understanding. While gathering additional information from DHS, NTEU, AFGE, and NAAE to clarify the role and activities of the field team, we learned that its role evolved over the course of the design effort, that it had no decision-making role in the design process, and that it was used as a recurring focus group. Accordingly, we changed the draft to reflect the field team's current role. DHS and OPM also provided a number of technical suggestions that have been incorporated where appropriate.

We are sending copies of this report to the Chairman and Ranking Minority Member, Senate Committee on Governmental Affairs; the Chairman and Ranking Minority Member, House Committee on Government Reform; the Chairman and Ranking Minority Member, House Select Committee on Homeland Security; and other interested congressional parties. We will also send copies to the Secretary of the Department of Homeland Security and the Director of the Office of Personnel Management. Copies will be made available at no charge on the GAO Web site at http://www.gao.gov.

If you have any questions about this report, please contact me or Ed Stephenson on (202) 512-6806. Key contributors to this report are listed in appendix V.



J. Christopher Mihm
Director, Strategic Issues

Practices and Implementation Steps for Mergers and Transformation

Implementing large-scale change management initiatives, such as mergers and organizational transformations, is not a simple endeavor and requires the concentrated efforts of both leadership and employees to realize intended synergies and to accomplish new organizational goals. At the center of any serious change management initiative are people—people define the organization's culture, drive its performance, and embody its knowledge base. Experience shows that failure to adequately address—and often even consider—a wide variety of people and cultural issues is at the heart of unsuccessful mergers and transformations. Recognizing the "people" element in these initiatives and implementing strategies to help individuals maximize their full potential in the new organization, while simultaneously managing the risk of reduced productivity and effectiveness that often occurs as a result of the changes, is the key to a successful merger and transformation. Thus, mergers and transformations that incorporate strategic human capital management approaches will help to sustain agency efforts and improve the efficiency, effectiveness, and accountability of the federal government.

GAO convened a forum on September 24, 2002, to identify and discuss useful practices and lessons learned from major private and public sector organizational mergers, acquisitions, and transformations. This was done to help federal agencies implement successful cultural transformations, including DHS. The invited participants were a cross section of leaders who have had experience managing large-scale organizational mergers, acquisitions, and transformations, as well as academics and others who have studied these efforts. We reported the key practices participants identified that can serve as the basis for subsequent consideration as federal agencies seek to transform their cultures in response to governance challenges. Since convening the forum, our additional work has identified specific implementation steps for these practices.[1] (See fig. 5.)

[1]GAO-03-669.

Figure 5: Key Practices and Implementation Steps for Mergers and Transformations

PRACTICE	IMPLEMENTATION STEPS
Ensure top leadership drives the transformation.	• Define and articulate a succinct and compelling reason for change. • Balance continued delivery of services with merger and transformation activities.
Establish a coherent mission and integrated strategic goals to guide the transformation.	• Adopt leading practices for results-oriented strategic planning and reporting.
Focus on a key set of principles and priorities at the outset of the transformation.	• Embed core values in every aspect of theorganization to reinforce the new culture.
Set implementation goals and a timeline to build momentum and show progress from day one.	• Make public implementation goals and timeline. • Seek and monitor employee attitudes and take appropriate follow-up actions. • Identify cultural features of merging organizations to increase understanding of former work environments. • Attract and retain key talent. • Establish an organizationwide knowledge and skills inventory to exchange knowledge among merging organizations.
Dedicate an implementation team to manage the transformation process.	• Establish networks to support implementation team. • Select high-performing team members.
Use the performance management system to define the responsibility and assure accountability for change.	• Adopt leading practices to implement effective performance management systems with adequate safeguards.
Establish a communication strategy to create shared expectations and report related progress.	• Communicate early and often to build trust. • Ensure consistency of message. • Encourage two-way communication. • Provide information to meet specific needs of employees.
Involve employees to obtain their ideas and gain ownership for the transformation.	• Use employee teams. • Involve employees in planning and sharing performance information. • Incorporate employee feedback into new policies and procedures. • Delegate authority to appropriate organizational levels.
Build a world-class organization.	• Adopt leading practices to build a world-class organization.

Source: GAO.

Design Process

The process for creating a DHS human capital management system, jointly developed by DHS and OPM, calls for a design team made up of DHS and OPM employees and union representatives. The process is divided into three stages: research, outreach, and drafting of initial personnel system options; review of the options; and development of proposed regulations. Early 2004 is the expected date for the issuance of the personnel system's final regulations.

Core Design Team Is to Draft Options for the Personnel System

As the first stage of the design process, the Core Design Team engaged in efforts that serve as the basis for the work of the other two components. The 48 team participants included personnel experts from OPM, DHS, and its component agencies; line employees and managers from DHS headquarters and field offices; and professional staff from the three major unions.[1] Members were assigned to one of two subgroups focusing on (1) pay and performance or (2) labor and employee relations. The management consulting firm Booz Allen Hamilton assisted the teams in their efforts.

Pay and Performance and Labor and Employee Relations Subgroups

Each subgroup had two coleaders, one from OPM and one from DHS, to guide them. The subgroups performed their duties both collectively and separately. They convened jointly when there were common issues to discuss or to listen to presentations on human capital systems. For example, the teams heard presentations on the performance management and performance-based pay system at Internal Revenue Service (IRS); the human capital management systems at FBI and NSA; and the performance management, pay banding, and employee appeals process used at GAO.

The pay and performance subgroup focused its work on the three chapters of Title 5 covering performance appraisal, classification, and pay rates and systems. According to the subgroup's leaders, they identified 25 researchable areas and assigned small teams to explore each. Subgroup members were assigned to work on multiple teams. Research areas included the structure of pay ranges, methods for categorizing types of work, and different appraisal and rating methods, for example. When asked about the initial findings of their research, the leaders of the pay and

[1]As noted previously, this summarizes data for those members on board as of July 11, 2003. Since that date, membership has changed.

performance subgroup indicated they identified many pay systems to consider and evaluate.

The labor and employee relations subgroup focused on the three chapters of Title 5 covering labor-management relations, adverse actions, and appeals, to narrow its research. To gain a better understanding of these issues, the group invited agencies such as the Merit Systems Protection Board and the Federal Labor Relations Authority to make presentations. Areas that were researched included different levels of employee, union, and management rights; negotiation models; and how the success of labor relations programs, adverse action systems, and appeals systems is evaluated, for example. According to the subgroup leaders, they also researched both leading and failed practices in their subject areas. The group created interview guides to collect information in a consistent format. When asked about the initial findings of the research, the subgroup reported difficulty in identifying innovative labor relations models that can be applied to the federal system.

Contractor Assistance

To help facilitate its efforts in the design of the personnel system, DHS contracted with management-consulting firm Booz Allen Hamilton to provide support in project management, research, writing, staff support, and communications/publicity. In addition, it was responsible for planning the Town Hall meetings and facilitating the focus groups. According to the subgroup leaders, the contractor was expected to help design the format for the option papers but would not likely be involved in drafting the substance of the options.

Senior Review Advisory Committee Is to Develop Final Set of Options

The Senior Review Advisory Committee, the second stage of the design process, will receive the broad set of options from the Core Design Team. From this set of options the committee is expected to develop its final list of options for the Secretary and Director to consider.[2] Committee members are permitted to eliminate, create, or prioritize the options. In communicating its list of options to the Secretary and Director, it may present the strengths and weaknesses of each. This committee could potentially make recommendations related to implementation strategies.

[2]An informal "planning committee," or small working group of DHS, OPM, and union senior executives was assembled to provide staff support, highlight issues for discussion during public meetings, and potentially to set the meeting agendas for the Senior Review Advisory Committee.

Meetings of the Senior Review Advisory Committee will be governed by the Federal Advisory Committee Act,[3] which requires meetings to be open to the public.[4]

The Under Secretary for Management at DHS and the OPM Senior Advisor for Homeland Security cochair the Senior Review Advisory Committee. Committee members are officials in key leadership positions at both OPM and DHS. OPM representatives include the Senior Advisor for Homeland Security, the Associate Director for Strategic Human Resources Policy, the Associate Director for Human Capital Leadership and Merit System Accountability, and the Senior Policy Advisor to the Director and Chief Human Capital Officer. DHS representatives include the Commissioner of Customs and Border Protection, the Director of TSA, Director of the U.S. Secret Service, Director of the Bureau of Citizenship and Immigration Services, and the Director of Administration. Union representatives are the presidents from AFGE, NTEU, and NAAE. External experts with particular knowledge and experience in human capital management will serve as advisors.

DHS Secretary and OPM Director Are to Propose Regulations for the Personnel System

The Secretary of DHS and the OPM Director make up the final stage of the design process. Once they receive the list of options from the Senior Review Advisory Committee, they may edit, remove, or develop alternatives to the proposed options. The Secretary and the Director will then issue proposed personnel rules for the department. As called for in the DHS legislation, individuals affected by the proposed rules have 30 calendar days to comment and make recommendations. The Secretary and Director are then to follow the provisions of the statutory reconciliation process for no less than 30 days.[5]

[3]5 U.S.C. App. 2, section 10.

[4]Notice of the official establishment of the Senior Review Advisory Committee was posted in the *Federal Register* on June 11, 2003. 68 *Fed. Reg.* 34994.

[5]Section 841 of the Homeland Security Act establishes a process for collaboration with employee representatives to provide notice of the proposed human resources management system, the opportunity to submit comments, and consultation over the recommendations made.

Characteristics of Core Design Team Members

Characteristics of the 48 members of the Core Design Team are described in further detail in tables 2 through 6 below. The tables summarize data for those members on board as of July 11, 2003. Since that date, membership of the Core Design Team has changed.

Table 2: Design Team Membership

Agency	Legacy Unit/Union	Total
DHS	APHIS	1
	Coast Guard	2
	Customs	3
	FEMA	3
	FLETC	2
	INS	5
	Secret Service	2
	Treasury	3
	TSA	3
DHS Total		**24**
OPM		**16**
Union Professional Staff	AFGE	4
	NTEU	4
Total Union Professional Staff		**8**
Total Design Team		**48**

Source: GAO.

Table 3: Who Selected Design Team Member

Current Employer	Organization that Selected Member	Total
DHS	NAAE	1
	DHS	23
DHS Total		**24**
OPM		**16**
Union Professional Staff	AFGE	4
	NTEU	4
Total Union Professional Staff		**8**
Total Design Team		**48**

Source: GAO.

Table 4: Subgroup Membership

Subgroup	DHS	OPM	Union	Total
Pay and Performance	12	9	4	**25**
Labor and Employee Relations	11	6	4	**21**
No data	1	1	0	**2**
Total	**24**	**16**	**8**	**48**

Source: GAO.

Table 5: Human Capital Professional versus Other Experience

Organization	Human Capital Professional	Other Experience	No Data	Total
DHS	12	12	0	**24**
OPM	12	4	0	**16**
Union	4	2	2	**8**
Total	**28**	**18**	**2**	**48**

Source: GAO.

Table 6: Years of Experience of Design Team Members

Agency	Average Years of Federal Experience[a]	Average Years of Experience Outside Headquarters[b]
DHS	21.7	9.9
OPM	21.5	6.5
Union	12.8	4.0
Total	**21.0**	**8.4**

Source: GAO.

[a]Based on complete data for 41 participants.

[b]Based on complete data for 39 participants.

Comments from the Office of Personnel Management



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-1000

OFFICE OF THE DIRECTOR

September 16, 2003

The Honorable David M. Walker
Comptroller General
General Accounting Office
Washington, DC 20548

Dear Mr. Walker:

I welcome the opportunity to respond to GAO's draft report entitled DHS Personnel System Design Effort Provides for Collaboration and Employee Participation. As you can well imagine, I am very pleased that GAO chose to title its report as you have since it reflects the success I believe we have had in ensuring that the process established to develop a new human capital system for the Department of Homeland Security was both collaborative and inclusive. I also very much appreciate the fact that GAO acknowledges that one of the strengths of our design effort has been the on-going commitment of both DHS and OPM leaders to stimulate and support the design effort.

I am sure you are aware that OPM was in the forefront of the effort to assure that the legislation creating DHS provided for the opportunity to create a human capital system that is no longer mired in the long outdated practices of the past—one that is modern and responsive to the needs of today and one that provided to the managers of DHS the flexibility to manage more than 180,000 employees in a manner consistent with the unique mission requirements of the department. I believe it essential that we be able to pay and reward employees for their contributions and not primarily for their longevity and that we be able to create a labor–management program that focuses on collaboration and cooperation rather than on process. We also must have a disciplinary and appeals system that is fair to employees and management alike by allowing for swift and equitable resolution of performance and disciplinary problems rather than a system that typically leads to months and often years of unresolved, costly, and disruptive acrimony. The Homeland Security Act gives us the opportunity to address these concerns, and I am excited about the prospect of creating a system, along with Secretary Ridge, that will make the DHS human capital program a model for good management everywhere.

We have attached a few comments on the draft report that we believe will serve to clarify a few aspects of our effort. Several of our comments focus on portions of your report that relate to the Field Team. Frankly, we believe there is a basic misunderstanding on the part of GAO about the intended role of the Field Team, and several of our comments are specifically targeted to that misunderstanding. In essence, it is important to keep in mind that the members of the Field Team were never intended to be fully participating members of the design effort. Indeed, their role was always intended to be limited in nature and to only reflect our desire to get a field reaction to proposals that were developed by the core design team a couple times during the process and shortly before those proposals were to be submitted to the Senior Review Committee. The Field Team

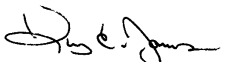
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was and is intended to serve as a "reality check" along the way—nothing more, nothing less—and that is how it has served.

We defer to the Department of Homeland Security to provide comments regarding the issues raised by GAO that pertain specifically to the department.

Once again, I appreciate the opportunity to comment on this draft report.

Sincerely,



Kay Coles James
Director

Attachment

GAO Contacts and Staff Acknowledgments

GAO Contacts

J. Christopher Mihm or Edward Stephenson, (202) 512-6806

Acknowledgments

In addition to the persons named above, Ellen V. Rubin, Tina Smith, Eric Mader, and Lou V.B. Smith made key contributions to this report.

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DISASTER ASSISTANCE: Federal Aid to the New York City Area Following the Attacks of September 11th and Challenges Confronting FEMA

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Testimony

Before the Subcommittee on Clean Air, Climate Change, and Nuclear Safety, Committee on Environment and Public Works, U.S. Senate

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DISASTER ASSISTANCE

Federal Aid to the New York City Area Following the Attacks of September 11th and Challenges Confronting FEMA

Statement of JayEtta Z. Hecker, Director Physical Infrastructure Issues



Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here to discuss issues related to the federal government's response to recovery efforts regarding to the September 11, 2001, terrorist attacks, particularly the role of the Federal Emergency Management Agency (FEMA), as well as management challenges facing FEMA as the agency adjusts to its transfer to the Department of Homeland Security (DHS). The terrorist attacks resulted in one of the largest catastrophes this country has ever experienced. The federal government has been a key participant in the efforts to provide aid after the attacks, and it has been providing the New York City area with funds and other forms of assistance. The magnitude of the disaster in New York and the size and scope of the federal government's response in aiding the city has generated significant interest in the nature and progress of this federal assistance.

In my testimony today, I will focus on (1) how much and what types of assistance the federal government provided to the New York City area following the September 11 terrorist attacks, (2) how the federal government's response to this disaster differed from previous disaster response efforts, and (3) the ongoing challenges FEMA faces as it, and its mission, are subsumed into the Department of Homeland Security. My comments will be based on the following GAO work on FEMA issues, including our January 2003 Performance and Accountability Reports that highlighted both FEMA and DHS management challenges and program risks[1] and our August 2003 report on FEMA public assistance we issued to the Full Senate Committee on Environment and Public Works, as well as ongoing work we are conducting for the Committee on the overall federal assistance to the New York City area in the wake of September 11. (See appendix 1 for further discussion of the objectives, scope, and methodology.)

The President pledged, and the Congress authorized an estimated $20 billion in assistance to the New York City area following the terrorist attacks.[2] Many agencies of the federal government were involved in

[1]U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Homeland Security*, GAO-03-102 (Washington, D.C.: January 2003) and *Major Management Challenges and Program Risks: Federal Emergency Management Agency*, GAO-03-113 (Washington, D.C.: January 2003).

[2]The $20 billion in federal assistance does not include the Victim's Compensation Fund or income tax deferrals.

administering this funding, but most of the federal aid—96 percent—has been provided through four sources: FEMA, the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), and the Liberty Zone tax benefits[3]. The assistance provided through these sources targeted different aspects of the response and recovery efforts, and in our work for the Committee, we have found that it is useful to discuss the federal aid to the New York City area in terms of four broad types of assistance instead of by each federal source of assistance. Consequently, I will discuss the aid in the following four broad categories:

- Initial response efforts, which include activities to save lives, recover victims, remove debris, and restore basic functionality to city services;
- Compensation for disaster-related costs and losses, which includes compensation for losses incurred by individuals, businesses, and governments;
- Infrastructure restoration, which includes efforts to restore and enhance infrastructure that was severely destroyed by the collapse of the World Trade Center towers and the subsequent response efforts; and
- Economic revitalization, which includes activities to help improve the lower Manhattan economy that was harmed by the disaster.

In summary,

[3]The Liberty Zone tax benefits are benefits primarily targeted to the area of New York City damaged on September 11, designated as the New York Liberty Zone

- As of June 30, 2003, an estimated $20 billion of federal assistance has been committed to the New York City area, primarily through FEMA, DOT, HUD, and the Liberty Zone tax benefits. Figure 1 shows the amount of assistance in each of the four broad categories.

Figure 1: Primary Purpose and Amount of Disaster Assistance Committed By FEMA, HUD, DOT, and Liberty Zone Tax Benefits



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above and according to HUD will mostly likely be directed to either infrastructure restoration or economic revitalization.

The $2.55 billion for initial response efforts included numerous assistance programs, such as search and rescue operations, debris removal operations, emergency transportation measures, and emergency utility service repair. FEMA provided the bulk of the federal funds for initial response efforts—$2.20 billion—but DOT and HUD also provided funds. Compensation for disaster-related costs and losses totaled about $4.81 billion. This funding, provided by FEMA and HUD, compensated state and local organizations, individuals, and businesses for disaster-related costs, such as mortgage and rental assistance to individuals and grants to businesses to cover economic losses. The amount committed for infrastructure restoration and improvement efforts is $5.57 billion. The majority of this funding is a combination of FEMA and DOT funds to rebuild and enhance the lower Manhattan transportation system, including the construction or repair of roads, subways, ferries, and railroads. HUD is funding efforts to improve utility infrastructure. Efforts to revitalize the economy in lower Manhattan include the Liberty Zone tax benefit plan—

an estimated benefit of $5.03 billion[4]—and $515 million in HUD funding for business attraction and retention programs. Once the city, state, and HUD finalize plans for the remaining $1.16 billion, these funds will most likely be directed to infrastructure restoration and improvements and/or economic revitalization.

- The $20 billion to assist the New York City area differed from previous disaster response efforts in that it was the first time in which the amount of federal disaster assistance to be provided was set early in the response and recovery efforts, which resulted in two major changes to the federal approach. First, the specified level of funding for the entire federal response to this disaster changed the traditional approach to administering FEMA funds. In an effort to ensure that all FEMA funds were expended for this disaster, FEMA broadly interpreted its provisions within the Stafford Act, and the Congress authorized FEMA to compensate the city and state for costs such as increased security that it could not otherwise have funded within provisions of the Stafford Act. Secondly, this specific level of funding for the disaster prompted Congressional appropriations that authorized numerous forms of non-traditional assistance by agencies other than FEMA, such as the Liberty Zone tax benefit plan and improvements to the transportation infrastructure that exceeded normal replacement cost.

- Simultaneous to FEMA's efforts to assist the New York City area's recovery from September 11, FEMA faced the challenge of being transferred into the newly formed DHS. As we previously reported in our 2003 Performance and Accountability Series, FEMA faces ongoing management challenges resulting from its transfer into DHS, and DHS itself faces the daunting challenge of combining FEMA and 21 other agencies with various missions into an effective and collaborative agency. Recognizing the magnitude of the overall challenge in establishing DHS, GAO has designated the implementation and transformation of the department as high-risk. Several of the specific challenges that FEMA faces include the need to (1) ensure effective coordination of preparedness and response efforts, (2) enhance provision and management of disaster assistance for efficient and effective response, and (3) reduce the impact of natural hazards by improving the efficiency of mitigation and flood programs. We have ongoing work that is focusing

[4]The Liberty Zone tax benefits are benefits targeted primarily to the area of lower Manhattan damaged on September 11, designated as the New York Liberty Zone. The amount of the tax benefit is an estimate prepared by the Joint Committee on Taxation.

on FEMA's challenges in each of these areas and will be reporting on these efforts in the near future.

Background

After a disaster, the federal government, in accordance with provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act)[5],assists state and local governments with costs associated with response and recovery efforts that exceed a state or locale's capabilities. FEMA is the agency responsible for coordinating federal disaster response efforts under the Federal Response Plan, an agreement among 27 agencies and the Red Cross to deliver federal disaster assistance. FEMA was established in 1978 to consolidate and coordinate emergency management functions in one agency. In November 2002, the Congress enacted legislation establishing DHS in an effort to consolidate numerous homeland security functions in a single entity, which involved subsuming 22 agencies, including FEMA. FEMA's primary functions have remained intact and have been placed primarily in DHS' Emergency Preparedness and Response Directorate.

FEMA not only coordinates the federal disaster response, it also provides significant assistance through a variety of programs funded through its Disaster Relief Fund. This assistance is provided when disaster costs exceed state and local government capabilities to respond and insurance damage proceeds. These programs include FEMA's individual assistance program that provides aid to victims affected by a disaster and its hazard mitigation program that provides funds to state and local governments to reduce the risk of damage from future disasters. However, FEMA's public assistance program is typically the largest source of disaster relief. It is designed to provide grants to eligible state and local governments and specific types of private non-profit organizations that provide services of a governmental nature, such as utilities, fire departments, emergency and medical facilities, and educational institutions, to help cover the costs of emergency response efforts and work associated with recovering from the disaster.

Many other agencies play active roles in federal disaster relief. For example, the Federal Highway Administration (FHWA), an agency of DOT, has existing authority to assist in disaster relief. FHWA can provide up to $100 million in emergency relief funding for each natural disaster or

[5]Pub. L. No. 93-288, 88 Stat. 143 (1974), as amended.

catastrophic failure event that is found eligible within the provisions of the Emergency Relief Program. Other agencies within DOT, such as the Federal Transit Administration (FTA) and the Federal Railroad Administration, also have had roles in previous disaster relief efforts. HUD, which has had authority to assist in disaster relief efforts at different times in the last few decades, once again became actively involved in providing disaster recovery assistance following Hurricane Andrew in 1992. Since that disaster occurred, the Congress has made available more than $5.7 billion in 15 supplemental appropriations to HUD for disaster assistance.[6] Typically, HUD awards funds to the affected state or local government, and then the funds are administered at the state or local level.

The President's declaration of September 11 as a federal disaster activated 27 agencies, including the American Red Cross in response and recovery efforts. On September 12, 2001, President Bush pledged to commit at least $20 billion to help the New York City area recover. The President sent a letter to the Speaker of the House requesting that the Congress pass emergency appropriations to provide immediate resources. Over the next 11 months, the Congress enacted three emergency supplemental appropriation acts that provided more than $15 billion in direct federal assistance as well as an estimated $5 billion economic stimulus package for the New York City area.

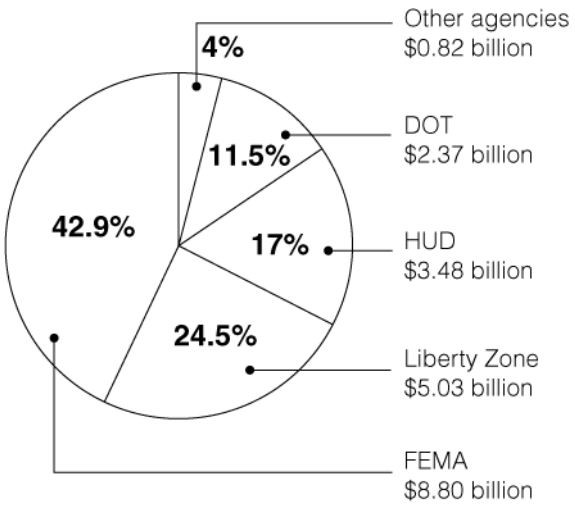
Federal Disaster Assistance to the New York City Area

The greatest role in providing federal assistance fell to FEMA, HUD, and DOT. The funds appropriated to these agencies, along with the Liberty Zone tax benefits, constitute over 96 percent of all federal assistance designated to the New York City area. FEMA, the largest single provider of assistance, was appropriated $8.80 billion for debris removal, rescue efforts, and other assistance. Congress appropriated HUD $3.48 billion to provide the New York City area assistance to aid businesses and individuals and spur economic revitalization. DOT received $2.37 billion to assist in the restoration and enhancement of the transit system in the New York City area. The Liberty Zone tax benefits is estimated by the Joint Committee on Taxation to reduce federal tax revenue—and in turn increase the funds retained by taxpayers—by $5.03 billion. An additional $0.82 billion in assistance to the New York City area has been appropriated to 15 other agencies to conduct numerous activities, such as environmental studies and federal building restoration. Figure 2 shows the

[6]All dollars are in nominal terms.

amount of federal assistance, in both amount and percentage, committed to the New York City area by the federal government.

Figure 2: Federal Assistance to the New York City Area by the Federal Government



Source: Congressional Budget Office and GAO.

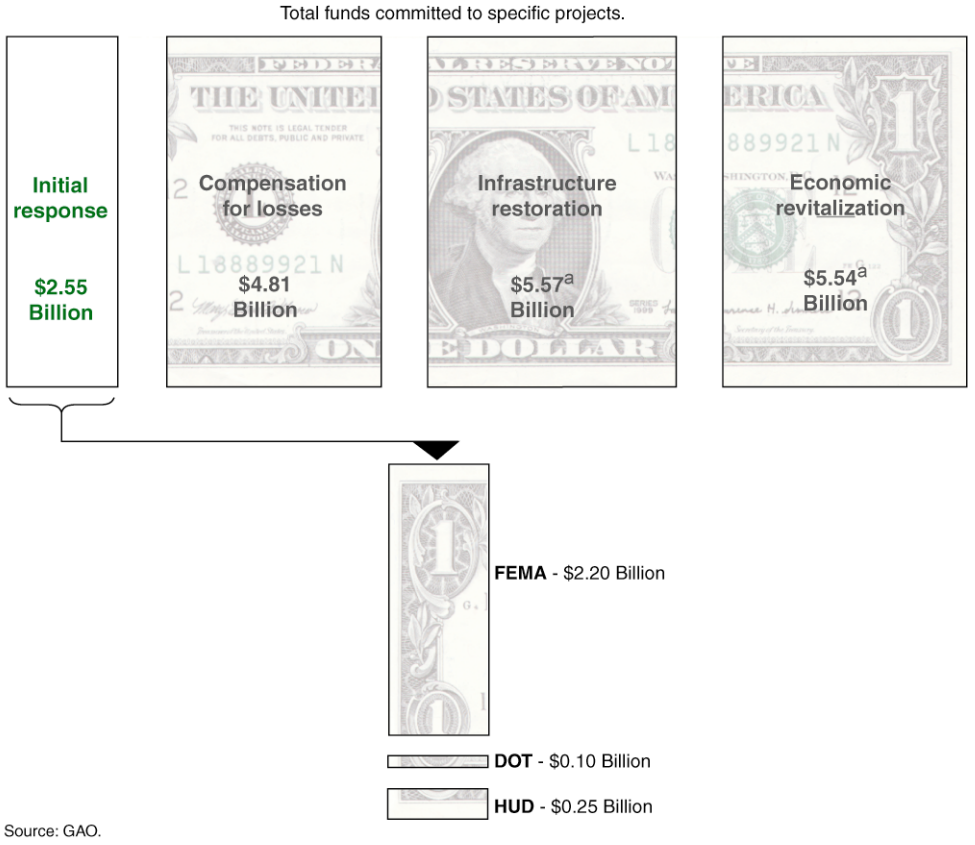
Note: Numbers do not total 100 percent due to rounding.

As the large majority of federal assistance to the New York City area is primarily through FEMA, DOT, HUD, and the Liberty Zone tax benefits, I would now like to discuss the assistance these sources did, or will, provide in the four board categories I discussed earlier: (1) initial response efforts, (2) compensation for disaster-related costs and losses, (3) infrastructure restoration, and (4) economic revitalization.

Initial Response Activities Totaled $2.55 Billion

Initial response assistance in New York City began immediately after the hijacked aircraft collided with the World Trade Center towers and totaled $2.55 billion. This assistance was predominately funded by FEMA. Figure 3 shows the amount each agency funded in this category of assistance.

Figure 3: Amount of Assistance Committed to Initial Response Activities, by Agency



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above, and according to HUD, will most likely be directed to either infrastructure restoration or economic revitalization.

Initial response activities included urban search and rescue; debris removal operations; emergency transportation measures; other initial response assistance by FEMA, such as cleaning buildings; and emergency and temporary utility service.

Urban Search and Rescue Operations

The terrorist attacks of September 11 prompted the largest search and rescue operation in U.S. history, a $22 million effort. FEMA oversees 28 national Urban Search and Rescue Task Forces across the country and 20 were activated to respond to the attacks in New York. The teams operate under FEMA authority and were deployed as part of the National Urban Search and Rescue Response System. Almost 1,300 members of the Urban

Search and Rescue teams and 80 dogs worked at the World Trade Center site.

Debris Removal Operations, Including Liability Insurance Coverage

Immediately after the World Trade Center towers collapsed, the debris removal operation began in order to help workers look for survivors. The effort eventually transformed to a victim and evidence recovery operation as well as a clean-up site. Debris removal operations totaled $1.70 billion, although over one-half of those funds—$1 billion dollars—is to be used to establish an insurance company with the intended purpose of covering the City and its contractors for potential claims resulting from debris removal at the World Trade Center site. The New York City Department of Design and Construction and the New York City Department of Sanitation completed the daunting task of removing debris piled from several stories below street level to 11 stories above ground and weighing nearly 1.6 million tons, with support from FEMA, the Federal Highway Administration, and the U.S. Army Corps of Engineers. FEMA provided $630 million to reimburse the city for the costs associated with removal of the debris from the World Trade Center site and barge it to a landfill on Staten Island, New York, for screening, sorting, and disposal. Initial estimates projected that the recovery effort and cleanup would take two years and cost $7 billion; however, the effort was completed substantially below these time and cost estimates. As of September 3, 2003, FEMA had obligated $1 billion for the insurance program; however, no funds will be disbursed until details for the establishment of the dedicated insurance company are finalized.

Emergency Transportation Measures

The collapse of the World Trade Center buildings and subsequent recovery efforts wreaked havoc on lower Manhattan's transportation system: subway stations and the PATH commuter rail terminal were destroyed, sections of local roads became impassable due to damage or recovery efforts, and subways and ferries were overcrowded as commuters returned to work using different means or routes of transportation. FEMA and DOT coordinated with a variety of transportation, public works, public safety, and utility providers to plan emergency/interim projects to address issues such as shifts in travel demand after September 11, capacity issues, and system delays associated with revised travel patterns.[7] Overall,

[7]As debris removal efforts were completed, FEMA and FTA released the "Emergency/ Interim Transportation Disaster Recovery Plan" in spring 2002, which identified 100 projects proposed by local agencies to use available FEMA and FTA funds.

FEMA and DOT provided approximately $299 million for emergency transportation measures, including:

- Clean-up and emergency repair of local roads and tunnels,
- Construction of a temporary PATH terminal,
- Expanded ferry service, and
- Capital projects to improve commuter transportation.

Other FEMA Initial Response Assistance

FEMA provided $285 million for other initial response assistance. For example, as authorized by the Congress, FEMA entered into an interagency agreement with the Department of Health and Human Services to conduct a project to screen and monitor emergency services personnel for long-term health effects of work at the World Trade Center site.[8] In addition, FEMA worked with EPA officials to conduct clean-up efforts that included vacuuming streets, parks, and other areas covered by dust from debris and fires and in conjunction with New York City officials conducted an indoor cleaning and testing program at private residences.

Emergency and Temporary Utility Service

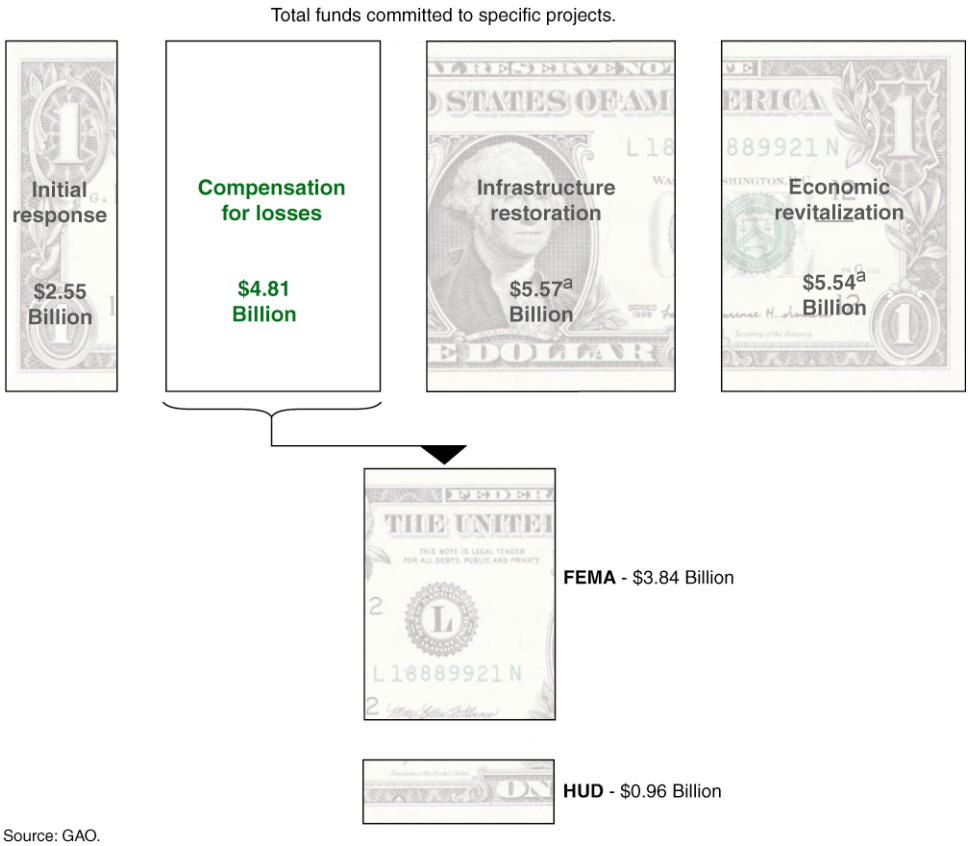
The collapse of the World Trade Center buildings and subsequent debris removal efforts resulted in widespread damage to the energy and telecommunications utility infrastructure. Utility firms worked to provide service for rescue operations in the days immediately following the disaster and to stabilize delivery of service to lower Manhattan, including the reopening of the New York Stock Exchange 6 days after the attacks. The Congress appropriated $250 million to HUD to reimburse utility companies for uncompensated costs associated with restoring service. Eligible firms will be reimbursed up to 100 percent of actual, incurred, uncompensated, and documented costs. These funds have not been disbursed to utility companies; however, HUD approved a city plan for distributing these funds on September 15, 2003, and HUD officials expect funds to begin being obligated.

Compensation for Disaster-Related Costs and Losses Totaled $4.81 Billion

Approximately $4.81 billion in federal assistance is committed to compensating state and local organizations, individuals, and businesses for disaster-related costs and losses. The majority of the assistance provided under this category was provided by FEMA. Figure 4 shows how much each agency has committed to compensate for disaster-related costs and losses.

[8]P.L. 108-7.

Figure 4: Amount of Assistance Committed to Compensate Disaster-Related Costs and Losses, by Agency



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above, and according to HUD, will most likely be directed to either infrastructure restoration or economic revitalization.

Note: Numbers do not equal total due to rounding.

FEMA provided funds through its Public Assistance Program, as congressionally authorized, non-traditional assistance to New York City and State; under its Hazard Mitigation Grant Program; Mortgage and Rental Assistance Program, Crisis Counseling Assistance Program, Individual and Family Grant Program, and also through a variety of other assistance efforts. HUD provided assistance under its residential grant program and business assistance programs.

Public Assistance to New York State, City, and Other Organizations

FEMA reimbursed New York State, City, and other organizations about $1.49 billion through its public assistance program to compensate for disaster-related costs and losses. Of this funding, $643 million was provided to the New York City Police and Fire Departments to pay benefits and wages to emergency workers during response and recovery efforts and to replace vehicles and other equipment. As first responders, these departments suffered heavy casualties and damages and received compensation for overtime costs, death benefits, and funeral costs. FEMA also reimbursed costs to the City to relocate several agencies' offices; establish a Family Assistance Center; reschedule elections that were being held on September 11 and replace damaged voting equipment; and pay for instructional time for students who missed school due to closures, delayed openings, and school relocations.[9]

FEMA also provided assistance to other entities, including the Port Authority, counties, and private nonprofit organizations; and it also provided funds to the state of New Jersey. The Port Authority was reimbursed for costs to replace equipment it lost when its World Trade Center facilities were destroyed and for office relocation costs. Additional assistance was provided to all New York counties for cancelled election costs and to some private-non-profits, such as Pace University, for temporary relocation. FEMA additionally provided $88 million to New Jersey for emergency protective measures.

Congressionally Authorized Non-traditional Assistance to New York City and State

In addition to the traditional public assistance FEMA provided to city and state agencies, the Congress also authorized FEMA to provide funding to the city and state for expenses associated with the disaster, but were unreimbursable under the Stafford Act. The legislation ensured that FEMA would be authorized to spend the entirety of the appropriated assistance for New York recovery efforts—$8.80 billion—by allowing the city and state to be provided reimbursement for disaster-related costs that FEMA otherwise could not have funded. Non-traditional assistance that FEMA was authorized to fund included reimbursements for heightened security in the aftermath of the terrorist attacks and cost-of-living adjustments to the pensions of survivors of firefighters and police officers killed in the line of duty in the attacks. In order for FEMA to determine how much funding was available for non-traditional assistance, FEMA officials implemented an expedited close-out process, identifying and deobligating any funds unspent as of April 30, 2003. These funds—totaling over $1

[9] House Report 107-593.

billion—were just recently provided to both the city and state and they will ultimately have discretion to use the funds as they deem suitable.

Hazard Mitigation Grant Program

FEMA also provided $377 million in hazard mitigation grants to New York State. Created in 1988 by the Stafford Act, the Hazard Mitigation Grant Program provides funds to states affected by major disasters to undertake mitigation measures. At the time of the New York disaster, FEMA could provide mitigation grants in an amount up to 15 percent on top of the total amount of other assistance provided.[10] However, in the New York recovery effort, the President limited mitigation funds to 5 percent of the funds appropriated within the total amount of funds. According to FEMA officials, the agency reduced the percentage of hazard mitigation grant funds available to New York initially because it was unclear how much the disaster would actually cost in FEMA funds, and public assistance funds were being provided at 100 percent Federal share. According to FEMA officials, as a result of the broadened authority authorized in the Consolidated Appropriations Resolution, New York has requested less for the Mitigation Grant program—which contains a state and/or local matching requirement—so that it could use funds to reimburse other disaster-related costs.

Mortgage and Rental Assistance Program

Individuals suffering financial hardships as a result of September 11 could obtain mortgage and rental assistance from FEMA. Prior to September 11, FEMA had provided a total of $18 million in mortgage and rental assistance grants in all previous disasters, which provided rent or mortgage payments to individuals in danger of losing their homes through foreclosure or eviction as a result of a major disaster. In the wake of September 11, this program increased tremendously, as FEMA provided nearly $200 million in this type of assistance for the New York City area. Initially, applicants were eligible if they resided in certain zones around the World Trade Center site. FEMA, as directed by the Congress, extended assistance to those working anywhere in Manhattan and to those whose employers were not located in Manhattan but were economically dependent on a Manhattan firm; and anyone living in Manhattan who commuted off the island and who suffered financially because of post-September 11 disruptions. The Mortgage and Rental Assistance program

[10]The Disaster Mitigation Act of 2000 increases this amount to 20 percent of total estimated federal assistance for states that meet enhanced planning criteria. For states without an approved enhanced plan, the Consolidated Appropriations Resolution of 2003 reduces the amount available for mitigation grants to 7.5 percent of the other assistance provided. However, neither of these provisions were applicable on September 11, 2001.

closed on January 31, 2003, and as of August 5, 2003, $194 million had been disbursed of the $200 million available. FEMA officials expect all funds to be disbursed as applicants receive monthly assistance.[11]

Crisis Counseling Assistance Program

The Crisis Counseling Assistance Program, funded by FEMA, led to the creation of "Project Liberty." Project Liberty, administered by the New York State Office of Mental Health, provides short-term outreach, education, referrals to mental health services, and a Regular Services Program to provide support to individuals with longer-term issues. In the past, only individuals from a declared disaster area were eligible to receive counseling services; however, because of the broad impact of the disaster, grants for this program were also provided to eligible individuals in New Jersey, Connecticut, Massachusetts, and Pennsylvania. FEMA provided more than $166 million for crisis counseling; this sum is more than all previous counseling grants since 1974 combined. Of these funds, $99 million has been obligated and disbursed.

Individual and Family Grant Program

FEMA is authorized by the Stafford Act to provide individual and family grants for individuals' necessary expenses related to disasters that were not covered through insurance, other federal assistance, or voluntary programs. For the September 11 disaster, FEMA's Individual and Family Grant Program provided eligible residents of New York City assistance for home repairs, replacement of personal property, reimbursement for air quality products, and repair or replacement of air conditioners. The New York State Department of Labor was tasked with implementing and administering the program. The Individual and Family Grant program closed on November 30, 2002. As of August 5, 2003, $97 million had been disbursed of the $110 million available through this program.

Other FEMA Assistance

In addition to Mortgage and Rental Assistance and Individual and Family Grants, FEMA also provided other temporary housing assistance, including Minimal Home Repair and Transient Accommodations programs totaling $34 million. Both programs address short-term needs such as lodging expenses and temporary housing repairs. In addition, the Stafford Act authorizes FEMA to provide unemployment assistance to individuals who are unemployed as a result of the disaster but not eligible for regular State Unemployment Insurance. For the New York City area, FEMA provided $17 million for disaster unemployment insurance administered by the State of New York.

[11]Eligible applicants received up to 18 months of assistance as part of this program.

HUD Funded Residential Grant Program

In addition to FEMA assistance programs, $281 million in HUD funds were used for the administration of the Residential Grant Program to provide compensation to those affected by the disaster who remained in the area, address the vacancy rate increases, and provide incentives to attract residents to the area.[12] The program consisted of three different grants—a two-year commitment grant, a September 11 resident's grant, and a family grant. Applicants could apply for all three types of grants; each grant's value depended on the applicant's location and housing/rental costs. The Residential Grant Program closed on May 30, 2003. As of June 30, 2003, over 31,000 applications totaling $172 million were approved and $106 million had been disbursed in grants.[13]

HUD Funded Business Assistance Programs

In addition, HUD funds were used for a variety of business assistance programs, such as recovery grants and loans to compensate for economic losses and recovery efforts. Almost 18,000 businesses in New York City, representing approximately 563,000 employees, were disrupted or forced to relocate as a result of the terror attacks. Approximately 30 million square feet of commercial space was damaged or destroyed. While businesses near the World Trade Center site suffered physical damage, businesses all across the city felt the economic impact of the disaster. The Empire State Development Corporation (ESDC), as a grantee for HUD funds, administered five programs in cooperation with New York City to compensate businesses for economic losses and to assist in their recovery. HUD funds provided $683 million for business assistance programs, and as of June 30, 2003, $510 million had been disbursed. The Business Recovery Grant Program, HUD's largest September 11 business assistance program, closed December 31, 2003, and provided $488 million to over 14,000 businesses in lower Manhattan as of June 30, 2003.[14] Other programs that are still available include a $33 million plan to provide assistance to businesses that lost a disproportionate amount of workforce due to the disaster, and a $41 million Business Recovery Loan Program.

[12]Although the Residential Grant program and its incentives helped to revitalize the economy of lower Manhattan, we categorized it as compensation for disaster-related losses because of its short-term nature and intended affect on the City in terms of restoring pre-disaster occupancy rates.

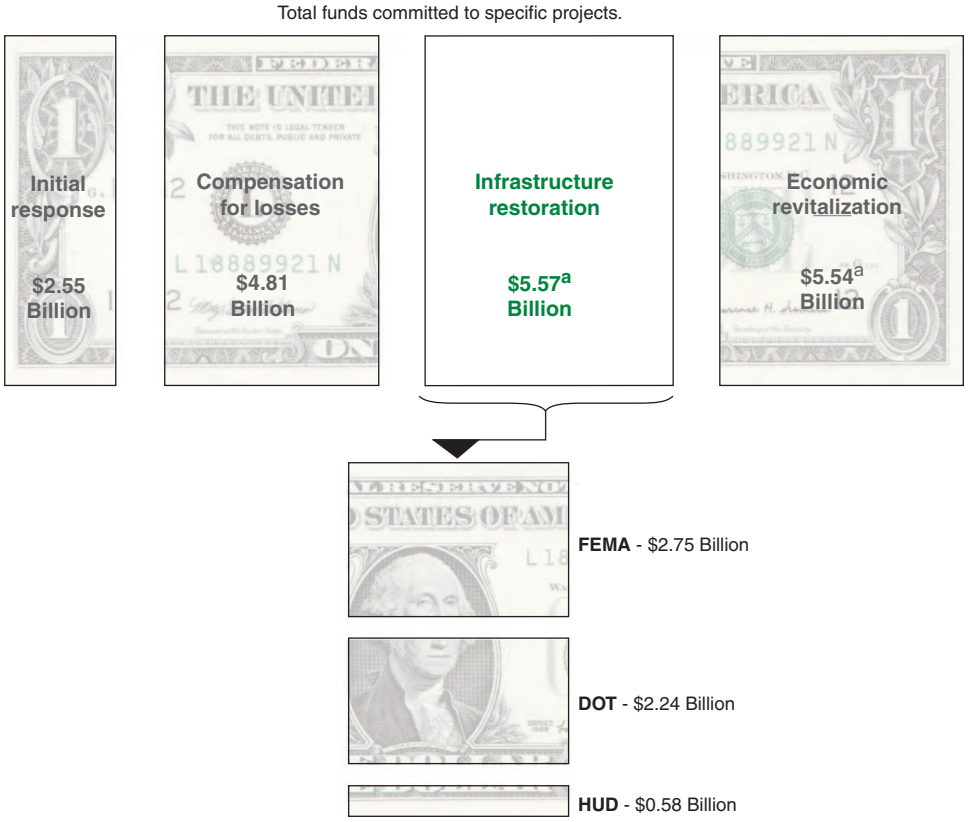
[13]In July 2003, HUD officials announced that $50 million unallocated from the Residential Grant Program would be used for an affordable housing initiative in lower Manhattan.

[14]ESDC provided funds to small and large businesses through its recovery grant program. In August 2003, HUD approved allocation of additional funds to allow full disbursement of these programs, for a total of $578 million.

About $5.57 Billion Has Been Committed for Projects to Restore and Enhance Infrastructure

The terrorist attacks at the World Trade Center severely damaged the public transportation system that was used by more than 85 percent of commuters to lower Manhattan—the highest percentage of people commuting to work by public transit of any commercial district in the nation. About $5.57 billion has been committed for projects to restore and enhance infrastructure in lower Manhattan and the amount of assistance each agency has committed is shown in figure 5.

Figure 5: Amount of Assistance Committed for Infrastructure Restoration and Improvement, by Agency



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above, and according to HUD, will most likely be directed to either infrastructure restoration or economic revitalization.

Infrastructure efforts being funded by FEMA, DOT, and /or HUD include restoration and enhancement of the lower Manhattan transportation system, including a new Port Authority Trans-Hudson (PATH) terminal and new subway stations; permanent utility infrastructure repairs and

improvements; and short-term capital projects, such as parks and open space enhancements.

Projects Planned to Restore and Enhance the Lower Manhattan Transportation System

The Congress has appropriated a total of $4.55 billion for transit projects, including $1.80 billion in Capital Investment Grants to FTA for replacing, rebuilding, or enhancing the public transportation systems serving Manhattan,[15] and $2.75 billion in FEMA funds. Under an August 2002 Memorandum of Agreement between FTA and FEMA, FTA was designated the lead federal agency in charge of administration and oversight. The three largest projects identified are the restoration and improvement of the PATH Transit Terminal, and the enhancements of the Fulton Street Transit Center and South Ferry Subway Station.

- **PATH Transit Terminal**—The PATH commuter rail terminal, located underneath the World Trade Center site, was completely destroyed in the terrorist attacks. The Port Authority is requesting $1.4 billion to $1.7 billion to build a permanent PATH terminal that Port Authority officials report will be a substantial improvement over the destroyed World Trade Center terminal. This terminal will serve PATH commuter trains and four subway lines and is to be completed in the 2007 to 2008 timeframe.

- **Fulton Street Transit Center**—The current Fulton Street—Broadway Nassau Subway Station Complex provides access to the most heavily used subway lines in lower Manhattan and lies one block east of the World Trade Center site. The complex is comprised of four separate subway stations that serve nine subway lines and 62,000 riders during weekday peak periods. The complex was not damaged on September 11, but according to FTA and Metropolitan Transit Authority (MTA) officials, it is difficult to navigate and not easily accessible. The MTA is planning a $750 million project to improve the existing Fulton Street—Broadway Nassau Subway Station Complex to create a Fulton Transit Center designed to have a visible street level entrance pavilion, improved intermodal connectivity, expanded platforms and mezzanines, and new underground pedestrian concourses. The project is estimated for completion in December 2007.

- **South Ferry Subway Station**—The South Ferry subway station, which is located a half-mile from the World Trade Center site, was not damaged on September 11; however, according to MTA officials, the South Ferry station is outmoded: only five cars of a ten-car subway train can open onto

[15]PL 107-206.

the platform at one time; the tunnel is curved in such a fashion that trains have to slow down substantially to negotiate it; and it has no direct passenger connections to nearby subway stations. MTA is planning to improve the South Ferry subway station so that it would accommodate the length of a standard ten-car subway train and would provide connection to the Whitehall Street station that serves two other subway lines. FTA officials anticipate that the project will cost $400 million and be completed in the 2007/2008 timeframe.

The permanent PATH terminal, the Fulton Transit Center, and the South Ferry station account for $2.55 billion to $2.85 billion of the $4.55 billion designated for lower Manhattan transit projects. At this time, projects to be funded with the remaining $1.7 billion to $2 billion have yet to be determined. In April 2003, various New York City and State agencies[16] released a report entitled Lower Manhattan Transportation Strategies that identified priority transportation projects. However, the total cost of these projects far exceeds the remaining federal transportation assistance funds. High priority projects highlighted in the report include access to JFK Airport and Long Island, enhancement of West Street, construction of a tour bus facility, and construction of World Trade Center underground infrastructure. To date no decisions have been made on which of these projects will be funded within the $4.55 billion cap. A portion of remaining $1.16 billion in HUD funds will most likely be directed to infrastructure improvement activities depending on the results of on-going studies.

In addition to the transit system, the Congress appropriated $442 million for restoration and improvements to the local roads and enhancements to ferry terminals and railroad tunnels. The Federal Highway Administration is overseeing plans for $242 million in resurfacing and reconstructing lower Manhattan streets through the Emergency Relief program. These streets were damaged by the direct impact of the collapsed World Trade Center buildings as well as wear and tear from response vehicles and debris removal activities, and from emergency telecommunications repairs. Ferry terminals were not damaged on September 11; however, FHWA was appropriated $100 million in Miscellaneous Highway funds for ferry and ferry facility construction projects.[17] Various ferry terminals are under consideration for significant enhancements in both New York and

[16]LMDC, Port Authority of New York and New Jersey, Metropolitan Transit Authority, the New York State Department of Transportation and the City of New York.

[17]PL 107-117.

New Jersey. Further, the Federal Railroad Administration was appropriated $100 million to renovate the New York rail tunnels. The funds are to be used by Amtrak to modernize ventilation systems, install communication systems, improve emergency exits from the tunnels, and structurally rehabilitate four East River tunnels, two Hudson River tunnels, and the subterranean section of Penn Station.

Permanent Utility Infrastructure Repairs and Improvements

The Congress also appropriated HUD funds to provide assistance to utility firms as they complete permanent repairs and improvements to the damaged infrastructure around the World Trade Center site. In addition to the $250 million for emergency repairs previously discussed, the Congress appropriated $500 million to HUD to provide funds to affected utility firms for permanent repairs and rebuilding. The goals of the permanent repair program are to prevent businesses and residences from bearing the cost of rebuilding and to enhance the redevelopment of lower Manhattan by supporting investment in energy and telecommunication infrastructure. New York State officials worked with utility firms, and state and local agencies to develop the program in order to help utility firms while developing an improved system to attract new businesses to the area. Applicants will have until December 31, 2007, to apply for certain programs.[18]

Short-term Capital Projects

A New York State Agency worked with community groups, local businesses, and city and state governments to select short-term capital projects for HUD funding as part of its effort to improve the accessibility and appearance of lower Manhattan. A plan submitted to HUD was approved on August 6, 2003, detailing $68 million of proposed projects that could be completed within one year of approval, such as parks and open space enhancements, West Street pedestrian connections, building and streetscape improvements, and a new school, Millennium High School. In addition, a portion of these funds will be used to conduct an outreach campaign to keep residents informed of rebuilding efforts.

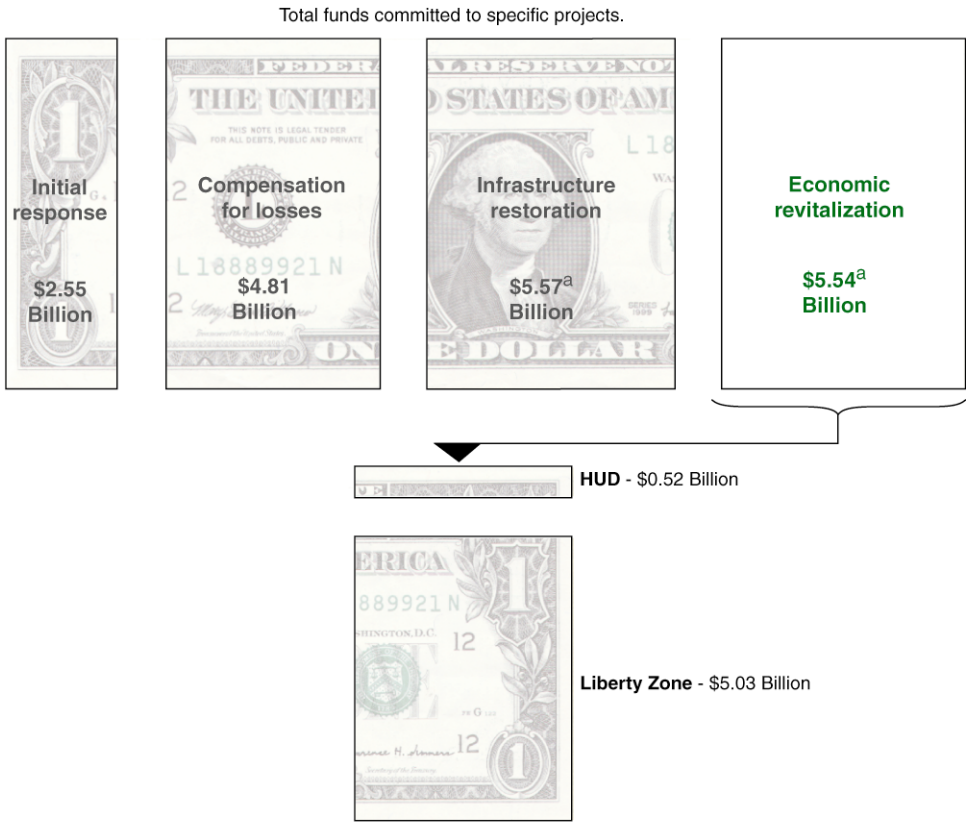
Efforts to Revitalize the New York Economy Include Tax Benefits and Assistance to Businesses

The terrorist attacks of September 11 disrupted New York City's economy and resulted in billions in lost [or forgone] income and tax revenues. The attacks caused tens of thousands of job losses and severely impacted lower Manhattan's commercial and retail sectors. In response, the Congress enacted the Liberty Zone tax benefits, estimated by the Joint

[18]HUD approved the utility plan September 15, 2003.

Committee on Taxation to be $5.03 billion in lost federal revenue, and appropriated funds to HUD, of which $515 million will aid in revitalizing the lower Manhattan economy. Figure 6 shows a breakdown of economic revitalization assistance.

Figure 6: Estimated Amount of Assistance Committed for Economic Revitalization, by HUD and Liberty Zone Tax Credits



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above, and according to HUD, will most likely be directed to either infrastructure restoration or economic revitalization.

Note: Numbers do not equal total due to rounding.

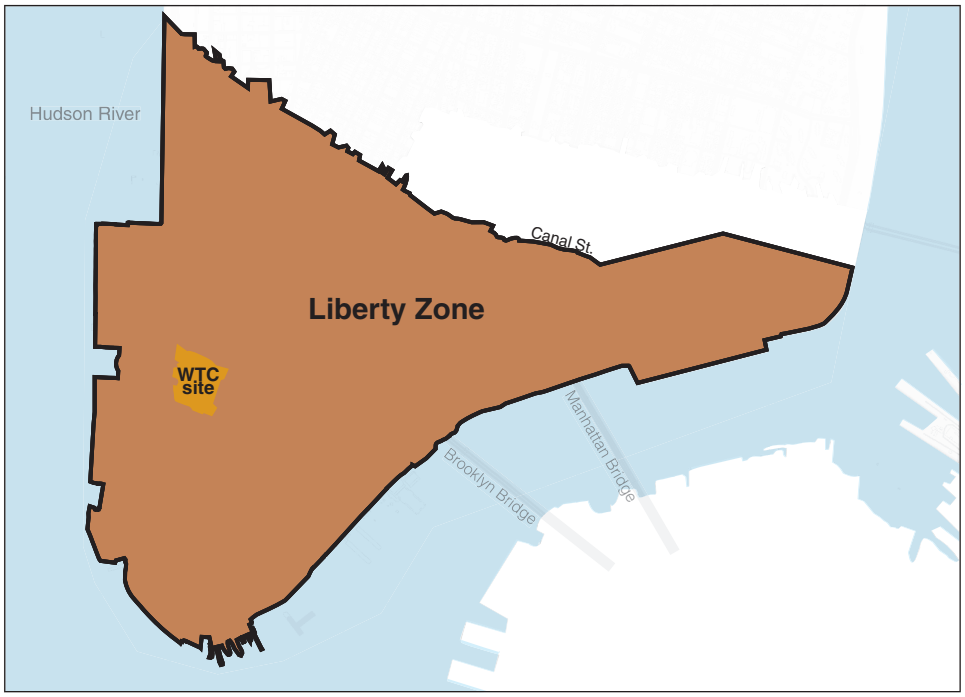
Liberty Zone Tax Benefits

In Title III of the Job Creation and Worker Assistance Act of 2002[19], Congress instituted tax benefits primarily targeted to the Liberty Zone, the

[19]Job Creation and Worker Assistance Act of 2002 (Public Law 107-147)

area of New York City most severely impacted by the terrorist attacks, as shown in figure 7.

Figure 7: New York Liberty Zone



Source: GAO.

The amount of benefits to New York that will result from the Liberty Zone tax provisions is unclear and likely to remain unknown. Before the Job Creation and Worker Assistance Act was passed, the Joint Committee on Taxation estimated the amount of tax revenue projected to be lost to the U.S. Treasury from the Liberty Zone provisions. However, an estimate of potential lost revenue is not the same as an estimate of the benefits received by taxpayers. Furthermore, there are uncertainties with any estimate. As with many tax benefits, usage of the Liberty Zone tax benefits will depend on a variety of difficult to predict economic factors that can influence the magnitude of the benefits. For example, an economic downturn could slow rebuilding efforts in the New York City area, reducing the use of benefits such as depreciation allowances. Conversely, an economic upturn could increase benefit usage above existing estimates. Additionally, information on usage of most Liberty Zone tax benefits is not being collected or reported by federal, state or local agencies, and the total amount of the benefits accruing to New York is likely to remain unknown.

HUD Business Assistance Programs and Planning for Rebuilding and Permanent Memorial

In addition to the Liberty Zone tax benefits, the Congress appropriated funds to HUD to revitalize lower Manhattan. New York State agencies are administering $515 million to provide programs to attract and retain businesses to the area and for other projects to revitalize lower Manhattan. Damage around the World Trade Center site displaced an estimated 1,025 firms employing more than 75,000 workers, and many more were displaced by subsequent recovery efforts. Of the $515 million committed for a variety of economic revitalization efforts, $475 million is provided to create incentives for existing small and large businesses to remain in the area and to attract new businesses to lower Manhattan. As of June 30, 2003, $161 million had been disbursed for these programs, providing assistance for 985 businesses. An additional $40 million had also been committed to help plan and coordinate rebuilding and revitalization efforts

The Designation of a Specific Level of Assistance Contributed to a Unique Federal Government Response for this Disaster

In its effort to provide assistance to the New York City area following the terrorist attacks, the federal government provided aid in all categories of assistance—initial response efforts, compensation for disaster-related costs and losses, infrastructure restoration and improvements, and economic revitalization—that differed from that provided in any previous disaster. However, the most significant difference in the federal government's response to this disaster was the designation of a specific level of funding for disaster assistance. The designation of $20 billion to assist the New York City area was the first time in which the total amount of federal disaster assistance was set early in the response and recovery efforts, and resulted in two major changes to the federal approach to this disaster.

- Designating a specific level of funding for the entire federal response to this disaster changed the traditional approach to administering FEMA funds.

- This specific level of funding for the entire disaster prompted Congressional authorization of numerous forms of non-traditional assistance to be provided by other agencies.

Designation of a Specific Level of Funding Altered the Traditional FEMA Disaster Assistance Process

The specific level of funding that was targeted by the President and passed by the Congress changed the traditional approach taken to administer FEMA funds. Ordinarily, FEMA assistance has no dollar limit . When a qualifying disaster event occurs, the President declares that a major disaster or emergency exists. This declaration activates numerous FEMA disaster assistance programs. The funding for responding to a specific disaster is not set; instead, the only factor limiting the amount of assistance for response and recovery efforts is reimbursement eligibility

under the Stafford Act. Historically, FEMA approves all applications for grants and other assistance if—and only if—the applications meet the program requirements under the act. For example, compensation to rebuild a public road would be an eligible project, but compensation to improve a public road would not be. Economic losses to a city from reduced tourism associated with a disaster would not be eligible. Further, as some projects can be long term and are reimbursed upon completion, it may take years to fully reconcile how much assistance was provided for certain disasters.

In responding to September 11, however, this traditional practice was not followed, as the President pledged at least $20 billion in federal assistance to New York, and subsequent to that pledge, the Congress, in authorizing this specific level of federal assistance, appropriated over $8.80 billion to FEMA—the first time that a specified amount of funds had been designated to FEMA to respond to a disaster. Consequently, FEMA officials viewed the amounts legislated as the amount of money to be spent in responding to the disaster and administered their programs accordingly to ensure that this amount of funding was provided to the New York area.

In addition, in order to respond to the amount of damage resulting from the attacks and to provide the entire appropriated amount for this disaster, FEMA expanded eligibility guidelines for many of its programs. FEMA officials said that they broadly interpreted the Stafford Act to provide public assistance for several projects. For example, FEMA—in conjunction with DOT—provided funds for lower Manhattan transportation system improvements. Previously, FEMA only provided funds to restore damaged infrastructure to its pre-disaster condition. In recognizing the interdependence of lower Manhattan's transportation system, FEMA officials reported that they interpreted their guidelines to allow maximum flexibility to permit the rebuilding of the transportation system as a whole instead of only what was damaged. Another example of the broadened guidelines FEMA followed in this case is its determination that costs associated with an EPA program to clean the interior of private residences—the first of its kind—were eligible for reimbursement under the Stafford Act. In this instance, FEMA determined that the dust associated with the collapse of the World Trade Center towers was a type of debris, and therefore costs associated with interior cleaning could be reimbursed.

Further, the Congress reinforced FEMA's flexible approach to eligibility for assistance in two ways. First, the Congress authorized FEMA to

expand the eligibility guidelines of certain programs due to the unique circumstances of the disaster and the unprecedented amounts of assistance available for response and recovery efforts.[20] For example, nearly a year after September 11, Congress authorized FEMA to make the Mortgage and Rental Assistance program more broadly available and directed FEMA to review applications that had been previously denied. With these new eligibility requirements, FEMA provided funds to individuals working anywhere in Manhattan and to those whose employers were not located in Manhattan, but who were economically dependent on a Manhattan firm. Further, the Congress authorized FEMA to establish an insurance company to manage a $1 billion insurance fund and to settle claims filed by, among others, city and contractor workers who suffered ill health effects as a result of working on debris removal operations.[21] Although FEMA regularly reimburses applicants for insurance costs that are part of a contract for services, FEMA has never reimbursed for insurance to cover a city for suits brought by its own employees.

Second, despite FEMA's broadened eligibility guidelines interpretation and the Congress' authorization of certain activities, there were still not enough projects eligible within the authority provided by the Stafford Act for which the New York City area could be reimbursed to reach the $8.80 billion target level for FEMA assistance. As a result, the Congress passed the Consolidated Appropriations Resolution that ensured that FEMA would spend the entirety of the FEMA-appropriated assistance for New York by authorizing the agency to reimburse costs that it otherwise could not have funded. This is the first time that FEMA has been given such expansive authority to fund projects outside of provisions of the Stafford Act. New York officials believe this was necessary because the Stafford Act was too restrictive for responding to a major terrorist event, as it does not allow FEMA to reimburse affected communities for many costs directly related to the disaster. With the authority granted by the Consolidated Appropriations Resolution, FEMA adapted its programs and conducted an expedited close-out process that allowed for disbursement of remaining funds to New York years sooner than in past disasters. As part of the expedited closeout process, FEMA provided funds for projects that the city or state had already completed and paid for. New York City and State officials will ultimately have discretion to use these federal

[20]Further discussion and additional examples of public assistance projects that we identified as non-traditional can be seen in GAO-03-926.

[21]Public Law 108-7.

funds as they deem appropriate, in contrast to the established process under which FEMA officials oversee distribution of federal funds to assure that only projects eligible within the provisions of the Stafford Act are funded. The expedited close-out resulted in FEMA reconciling the most expensive public assistance disaster in its history years before the process is typically accomplished.

As a result of the different approach taken to respond to this disaster, FEMA recently initiated an effort to develop a concept for redesigning its public assistance program. As we noted in our August 2003 report on FEMA's public assistance program efforts in New York, a working group of the Public Assistance Program Redesign Project was formed at the request of the director of FEMA's Recovery Division, and held its first meeting in May 2003.[22] Members included FEMA public assistance and research and evaluation staff and state program managers to provide a broader perspective on the issues and concerns. The project was established to suggest proposals to improve the public assistance program and make it more efficient and capable of meeting community needs for all types and sizes of disasters, including those resulting from terrorism. Among other things, the project seeks to transform the program to one that is flexible enough to meet the demands of disasters of all types and sizes and eliminate redundancies in decision-making and processes. The working group will examine potential options for redesigning the program that include an annual block grant program managed by the states, a disaster-based state management program, and a capped funding amount. The working group plans to develop a basic design concept for revising the program by September 30, 2003.

Designation of a Specific Level of Assistance Spurred Congressional Appropriation and Authorization of Other Forms of Non-Traditional Disaster Assistance

Not only was FEMA's traditional disaster response effort changed in assisting the New York area, but the specific level of funding that was targeted by the President and passed by the Congress also spurred authorization of other forms of non-traditional assistance for the New York City area. The most notable of these is the Liberty Zone tax benefits. To address the economic impact of the September 11 attacks on New York, Congress passed the estimated $5.03 billion New York Liberty Zone tax benefit package.[23] This was a unique way for the Congress to provide assistance for the area affected by the disaster as, according to IRS

[22]GAO-03-926.

[23]Job Creation and Worker Assistance Act of 2002 (PL 107-147)

officials, the Congress has never before passed a tax benefits package in response to a disaster. Further, this tax package was targeted to a geographic area, which has not generally occurred in the past.

Additionally, DOT was authorized to fund transportation projects to improve the overall transportation system substantially beyond pre-disaster condition. In most disasters, DOT is authorized to provide funds only to rebuild or restore damaged infrastructure back to its pre-disaster condition. However, in response to September 11, the Congress authorized DOT not only to restore transportation infrastructure directly damaged in the disaster, but also to enhance the overall lower Manhattan transportation system.

Further, the Congress also directed HUD to compensate businesses for economic losses—the first time its funds have been used for this purpose. In previous disasters, HUD funds were typically provided to address long-term effects of the disaster, including economic redevelopment efforts. However, after September 11, the Congress directed HUD to focus on different aspects of relief efforts than in previous disasters, such as compensating businesses and individuals for economic losses and funding programs to promote tourism initiatives in lower Manhattan, which had not been done before, according to HUD officials.

FEMA Faces Major Management Challenges While Making the Transition to the Department of Homeland Security

The integration of FEMA into DHS, a department whose focus is on security against terrorism, while maintaining FEMA's current roles is likely to present both FEMA and DHS officials with major challenges. In January of this year, we published the 2003 Performance and Accountability Series[24] that focused on major management challenges and program risks facing the federal government. In that series, we published reports on challenges to both FEMA and DHS. In our report on DHS, we noted that the creation of DHS, involving the integration of FEMA and 21 other agencies specializing in various disciplines, is a daunting challenge; yet only through the effective integration and collaboration of entities can the synergy expected of the department be achieved. Recognizing the magnitude of the overall challenge in establishing DHS, we designated the implementation and transformation of the department as high-risk. Our

[24]U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Homeland Security*, GAO-03-102 (Washington, D.C.: January 2003) and *Major Management Challenges and Program Risks: Federal Emergency Management Agency*, GAO-03-113 (Washington, D.C.: January 2003).

Performance and Accountability report on FEMA pointed to specific areas where its homeland security and non-homeland security missions were being transferred to separate DHS directorates. This divisional separation could complicate FEMA's historical all-hazards approach—a comprehensive approach focused on preparing for and responding to all types of disaster, either natural or man-made. The separation of disaster and emergency responsibilities across two directorates of the new department will present coordination challenges for the appropriate Undersecretaries within DHS.

Our FEMA Performance and Accountability report noted a number of other challenges. These include:

- **Enhancing the provision and management of disaster assistance for efficient and effective response**. FEMA has demonstrated its ability to quickly get resources to stricken communities and disaster victims, but has had problems ensuring the effective use of such assistance, according to the Office of Management and Budget (OMB). Among other things, FEMA will be challenged to (1) improve its criteria for determining state and local eligibility to receive federal disaster assistance, (2) assess the extent of and approach to assistance for future major disasters based on the recovery efforts undertaken in the New York City area, (3) enhance disaster assistance staff training and resource planning, and (4) improve its existing information system before it is used as a building block for a multi-agency disaster management website.

- **Reducing the impact of natural hazards by improving the efficiency of mitigation and flood programs**. For many years, FEMA has focused increased emphasis on reducing the impact of natural hazards, not only to lessen the impact to property and individuals, but also to reduce federal disaster costs. Two of the agency's major efforts in this regard have been its mitigation programs and the National Flood Insurance Program. These programs seek to strengthen structures against the effects of hazards or remove them from harm's way and to minimize the need for future FEMA disaster assistance. However, concerns exist in both these efforts that may limit their effectiveness in achieving these objectives. Moreover, the placement of FEMA within DHS represents a substantially changed environment in which FEMA will conduct its missions in the future, and missions that focus on reducing the impacts of natural hazards, such as hazard mitigation and flood insurance, may receive decreased emphasis. Sustained attention to these programs will be needed to ensure they maintain or improve their effectiveness in protecting the nation against, and reducing federal costs associated with, natural disasters.

We continue to view these areas as challenges for FEMA and expect to assist the Congress in its efforts to examine these challenges. In this regard, we have a number of assignments ongoing or planned that address many of these issues, and we will be reporting on these in the near future.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions you or Members of the Subcommittee may have.

For further information on this testimony, please contact JayEtta Z. Hecker at (202) 512-2834 or William O. Jenkins at (202) 512-8777. Individuals making key contributions to this testimony include Kevin F. Copping, Matthew F. Ebert, Kara A. Finnegan-Irving, John T. McGrail, and John R. Schulze.

Appendix I: Objectives, Scope, and Methodology

The Subcommittee on Clean Air, Climate Change, and Nuclear Safety, Senate Committee on Environment and Public Works, asked us to describe the federal government's response and recovery efforts to New York City and how the federal government's response to this disaster differed from previous disasters. Additionally, we were asked to describe the management challenges FEMA faces as it integrates into the Department of Homeland Security (DHS).

In addressing the first and second objective, we limited our work to the four federal sources of assistance that comprise 96 percent of the $20 billion in aid pledged by the President to help the New York City area response to and recover from the terrorist attacks. We used information in our August 29, 2003 report on the Federal Emergency Management Agency's Public Assistance Program and our ongoing work on the overall federal response to the New York City area that we are conducting for the Senate Committee on Environment and Public Works. To develop the information for our ongoing work that we used in this statement, we reviewed relevant legislation and obtained and reviewed information from the appropriate budget documents, funding plans, status reports and other documents from the respecting agencies. We also reviewed available Executive Orders, Presidential correspondence, Office of Management and Budget reports, and Congressional Budget Office reports related to federal response and recovery efforts for New York City. We interviewed federal officials from the Office of Management and Budget, FEMA, the Department of Housing and Urban Development, the Federal Transit Administration, the Federal Highway Administration, the Federal Railroad Administration, and the Internal Revenue Service to get their perspectives on to what purposes the assistance has been and will be used. We also obtained pertinent documents from and interviewed officials with New York State and New York City agencies, including the Lower Manhattan Development Corporation, the Empire State Development Corporation, the New York State Department of Transportation, the Metropolitan Transit Administration, and Port Authority of New York and New Jersey. We also interviewed officials from nonprofit planning and research organizations in New York to gain their perspectives on use of the funding in the city's redevelopment process. We reviewed relevant agency documentation of program plans and execution including budget documents and databases. We also compared agency historical data to documentation from the New York response and recovery.

To address management challenges facing FEMA as it transfers to the Department of Homeland Security, we used information from two reports from GAO's Performance and Accountability Series. These were *Major*

Management Challenges and Program Risks: Federal Emergency Management Agency (January 2003 GAO-03-113) and *Major Management Challenges and Program Risks: Department of Homeland Security* (January 2003 GAO-03-102.)

The work we drew upon for this statement was conducted from July 2002 through September 2003 in accordance with generally accepted government accounting standards.

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PRINTED ON RECYCLED PAPER

January 23, 2004
Defense of Marriage Act: Update to Prior Report

GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

January 23, 2004

The Honorable Bill Frist
Majority Leader
United States Senate

Subject: *Defense of Marriage Act: Update to Prior Report*

Dear Senator Frist:

The Defense of Marriage Act (DOMA) provides definitions of "marriage" and "spouse" that are to be used in construing the meaning of a federal law and, thus, affect the interpretation of a wide variety of federal laws in which marital status is a factor.[1] In 1997, we issued a report identifying 1,049 federal statutory provisions classified to the United States Code in which benefits, rights, and privileges are contingent on marital status or in which marital status is a factor.[2] In preparing the 1997 report, we limited our search to laws enacted prior to September 21, 1996, the date DOMA was signed into law. Recently, you asked us to update our 1997 compilation.

We have identified 120 statutory provisions involving marital status that were enacted between September 21, 1996, and December 31, 2003. During the same period, 31 statutory provisions involving marital status were repealed or amended in such a way as to eliminate marital status as a factor. Consequently, as of December 31, 2003, our research identified a total of 1,138 federal statutory provisions classified to the United States Code in which marital status is a factor in determining or receiving benefits, rights, and privileges.

To prepare the updated list, we used the same research methods and legal databases that we employed in 1997. Accordingly, the same caveats concerning the completeness of our

[1] The Defense of Marriage Act defines "marriage" as "a legal union between one man and one woman as husband and wife"; it defines "spouse" as referring "only to a person of the opposite sex who is a husband or a wife." The Act requires that these definitions apply "[i]n determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States." 1 U.S.C. § 7.

[2] U.S. General Accounting Office, *Defense of Marriage Act*, GAO/OGC-97-16 (Washington, D.C.: January 31, 1997).

collection of laws apply to this updated compilation, as explained more fully in our prior report. For example, because of the inherent limitations of any global electronic search and

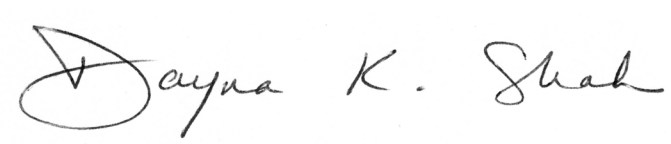
the many ways in which the laws of the United States Code may deal with marital status, we cannot guarantee that we have captured every individual law in the United States Code in which marital status figures. However, we believe that the probability is high that the updated list identifies federal programs in the United States Code in which marital status is a factor.

We have organized our research using the same 13 subject categories as the 1997 report. As agreed with your staff, in addition to providing you with a primary table of new statutory provisions involving marital status, we have prepared a second table identifying those provisions in our prior report that subsequently have been repealed or amended in a manner that eliminates marital status as a factor. Finally, in a third table, we have listed those provisions identified in our 1997 report that have since been relocated to a different section of the United States Code. We have also attached a brief summary of the 13 research categories; a full description of each category is set forth in the 1997 report.

We plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this letter to interested congressional committees. The letter will also be available on GAO's home page at http://www.gao.gov.

If you have any questions, please contact me at (202) 512-8208 or by E-mail at shahd@gao.gov. Behn Miller Kelly and Richard Burkard made key contributions to this project.

Sincerely yours,



Dayna K. Shah
Associate General Counsel

APPENDIX 1

Table of Statutory Provisions Involving Marital Status Added to the United States Code Between September 21, 1996, and December 31, 2003, by Category

CATEGORY 1—SOCIAL SECURITY AND RELATED PROGRAMS, HOUSING, AND FOOD STAMPS

Title 42 – The Public Health and Welfare	
Chapter 6A—Public Health Service	
Subchapter II	
Part D—Primary Health Care	
Subpart I—Health Centers	
§ 254d	National Health Service Corps
Subchapter IV—Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services	
Part B—Child and Family Services	
Subpart 2—Promoting Safe and Stable Families	
§ 629a	Definitions
Subchapter XI—General Provisions, Peer Review, and Administrative Simplification	
Part A—General Provisions	
§ 1320a-7	Exclusion of certain individuals and entities from participation in Medicare and state health care programs
§ 1320b-17	Recovery of SSI overpayments from other benefits
Part C—Medicare + Choice Program	
§ 1395w-22	Benefits and beneficiary protections
§ 1395w-23	Payments to Medicare + Choice organizations
§ 1395w-27	Contracts with Medicare + Choice organizations
Part D—Miscellaneous Provisions	
§ 1395x	Definitions
§ 1395ff	Determinations; appeals
Chapter 35—Programs for Older Americans	
Subchapter III—Grants for States and Community Programs on Aging	
Part C—Nutrition Services	
Subpart III—General Provisions	
§ 3030g-21	General provisions—nutrition
§ 3030s	Definitions
Chapter 46—Justice System Improvement	
Subchapter XII—F—Public Safety Officers' Death Benefits	
Part A—Death Benefits	
§ 3796d	Purposes
§ 3796d-1	Basic eligibility
Subchapter XII—H—Grants to Combat Violent Crimes against Women	
§ 3796gg-1	State grants
Chapter 84—Department of Energy	
Part A—Establishment of Compensation Program and Compensation Fund	
Subchapter XVI—Energy Employees Occupational Illness Compensation Program	
§ 7384s	Compensation and benefits to be provided
§ 7384u	Separate treatment of certain uranium employees
Part C—Treatment, Coordination, and Forfeiture of Compensation and Benefits	
§ 7385c	Exclusivity of remedy against the United States and against contractors and subcontractors
Chapter 110—Family Violence Prevention and Services	
§ 10410	Grants for state domestic violence coalitions
§ 10421	Definitions

Chapter 129—National and Community Service ***Subchapter I—National and Community Service State Grant Program*** ***Division F—Administrative Provisions***	
§ 12639	Evaluation
Chapter 130—National Affordable Housing ***Subchapter I—General Provisions and Policies***	
§ 12704	Definitions
§12713	Eligibility under first-time home-buyer programs
Chapter 136—Violent Crime Control and Law Enforcement ***Subchapter III—Violence against Women*** ***Part C—Civil Rights for Women***	
§ 13981	Civil rights
§ 13992	Training provided by grants
Chapter 143—Intercountry Adoptions ***Subchapter V—General Provisions***	
§ 14952	Special rules for certain cases

CATEGORY 2—VETERANS' BENEFITS

Title 38—Veterans' Benefits	
Part II—General Benefits **Chapter 17—Hospital, Nursing Home, Domiciliary, and Medical Care** ***Subchapter II—Hospital, Nursing Home, Or Domiciliary Care and Medical Treatment***	
§ 1710B	Extended care services
Subchapter VIII—Health Care of Persons other than Veterans	
§ 1781	Medical care for survivors and dependents of certain veterans
Chapter 18—Benefits for Children of Vietnam Veterans ***Subchapter III—General Provisions***	
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§ 138	Medicare + Choice MSA
§ 221	Interest on education loans
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§ 529	Qualified tuition programs
§ 530	Coverdell education savings accounts
Subchapter K—Partners and Partnerships ***Part IV—Special Rules for Electing Large Partnerships***	
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§ 775	Electing large partnership defined
Subchapter O—Gain or Loss on Disposition of Property ***Part II—Basis Rules of General Application***	
§ 1022	Treatment of property acquired by decedent dying after December 31, 2009
Subchapter W—District of Columbia Enterprise Zone	
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Subchapter C—Miscellaneous	
§ 2210	Termination
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§ 2511	Transfers in general
Chapter 13—Tax on Generation-Skipping Transfers ***Subchapter D—GST Exemption***	
§ 2632	Special rules for allocation of GST exemption
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§ 2301	Merit system principles
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§ 3301	Civil service; generally
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§ 7384s	Compensation and benefits to be provided
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CATEGORY 6—IMMIGRATION, NATURALIZATION, AND ALIENS

Title 8—Aliens and Nationality	
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§ 1229c	Voluntary departure
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§ 1641	Definitions
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§ 3805*note*	United States—Chile Free Trade Agreement Implementation Act

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Chapter 18—Indian Health Care	
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§ 1621h	Mental health services
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§ 2206	Descent and distribution
§ 2216	Trust and restricted land transactions
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§ 4103	Definitions
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CATEGORY 8—TRADE, COMMERCE, AND INTELLECTUAL PROPERTY

Title 12—Banks and Banking	
Chapter 13—National Housing	
§ 1701q	Supportive housing for the elderly
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§ 1707	Definitions
§ 1713	Rental housing insurance
§ 1715e	Cooperative housing insurance
Chapter 17—Bank Holding Companies	
§ 1841	Definitions
Chapter 31—National Consumer Cooperative Bank	
Subchapter I—Establishment and Operation	
§ 3015	Eligibility of cooperatives
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§ 632	Small business concern
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Chapter 50—Agricultural Credit	
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§ 2009aa-1	Delta Regional Authority
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§ 2009dd-3	National Board on rural America

CATEGORY 10—CRIMES AND FAMILY VIOLENCE

Title 18—Crimes and Criminal Procedure	
Part I—Crimes	
Chapter 46—Forfeiture	
§ 983	General rules for civil forfeiture proceedings
Chapter 110A—Domestic Violence	
§ 2261A	Interstate stalking
Title 20	
Chapter 28—Higher Education Resources and Student Assistance	
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§ 1152	Grants to combat violent crimes against women on campuses
Title 28—Judiciary and Judicial Procedure	
Part V—Procedure	
Chapter 115—Evidence; Documentary	
§ 1738C	Certain acts, records, and proceedings and the effect thereof
Title 42—The Public Health And Welfare	
Chapter 135—Violent Crime Control and Law Enforcement	
Subchapter III—Violence against Women	
Subpart 3—Rural Domestic Violence and Child Abuse Enforcement	
Part C—Civil Rights for Women	
§ 13981	Civil rights
Part D—Equal Justice for Women in the Courts Act	
Subpart 1—Education and Training for Judges and Court Personnel in State Courts	
§ 13992	Training provided by grants

CATEGORY 11—LOANS, GUARANTEES, AND PAYMENTS IN AGRICULTURE

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CATEGORY 12—FEDERAL NATURAL RESOURCES AND RELATED STATUTORY PROVISIONS

No new provisions in this category of statutes.

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Subchapter II—Preparing, Training, and Recruiting High Quality Teachers and Principals	
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§ 6674	Participation agreement and financial assistance
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§ 6713	Civil liability of the United States

APPENDIX 2

Tables of Statutory Provisions Identified in 1997 Report as Involving Marital Status That Have Been Repealed or Amended to Remove Reference to Marital Status

Category 1—Social Security and Related Programs, Housing, and Food Stamps

Subject	1997 Statutory Citation	Status
Regulations pertaining to garnishments	42 U.S.C. §§661-662	Repealed by Pub. L. No. 104-193, § 362(b)(1), effective February 22, 1997, 110 Stat. 2246.

Category 3—Taxation

Subject	1997 Statutory Citation	Status
Collapsible corporations	26 U.S.C. § 341	Repealed by Pub. L. No. 108-27, § 302(e), May 28, 2003, 117 Stat. 763.
Rollover of gain on sale of principal residence	26 U.S.C. § 1034	Repealed by Pub. L. No. 105-34, § 312(b), Aug. 5, 1997, 111 Stat. 839.
Tax on excess distribution from qualified retirement plans	26 U.S.C. § 4980A	Repealed by Pub. L. No. 105-34, § 1073(a), Aug. 7, 1997, 111 Stat. 948.

Category 4—Federal Civilian and Military Service Benefits

Subject	1997 Statutory Citation	Status
Employment of retired members of the uniformed services; reduction in retired or retainer pay	5 U.S.C. § 5532	Repealed by Pub. L. No. 106-65, § 651(a)(1), Oct. 1, 1999, 113 Stat. 664.
Assistance to separated members to obtain certification and employment as teachers or employment as teachers' aides	10 U.S.C. § 1151	Repealed by Pub. L. No. 106-655, § 1707(a)(1), Oct. 5, 1999, 113 Stat. 823.
Military child care employees	10 U.S.C. § 1792	Amended by Pub. L. No. 105-261, § 1106, Oct. 17, 1998, 112 Stat. 2142; reference to marital status removed.
Job training partnership, application of federal law	29 U.S.C. § 1706	Repealed by Pub. L. No. 105-220, § 199(b) (2), effective July 1, 2000, 112 Stat. 1059.
Rights, benefits, privileges, and immunities; exercise of authority of Secretary of Commerce or designee (National Ocean Survey employees)	33 U.S.C. § 857a	Repealed by Pub. L. No. 107-372, § 271(2), Dec. 19, 2002, 116 Stat. 3094 and replaced with similar provisions that omit any reference to marital status. See 33 U.S.C. 3071 (National Oceanic and Atmospheric Administration Commissioned Officer Corps - Rights and benefits).

Category 5—Employment Benefits and Related Statutory Provisions

Subject	1997 Statutory Citation	Status
Youth training program for the disadvantaged	29 U.S.C. § 1644	Repealed by Pub. L. No. 105-220, § 199(b)(2), effective July 1, 2000, 112 Stat. 1059.
Job Corps—Allowances and support	29 U.S.C. § 1699	Repealed by Pub. L. No. 105-220, § 199(b)(2), effective July 1, 2000, 112 Stat. 1059.
Labor market information	29 U.S.C. § 1752	Repealed by Pub. L. No. 105-220, § 199(b)(2), effective July 1, 2000, 112 Stat. 1059.

Category 6—Immigration, Naturalization, and Aliens

Subject	1997 Statutory Citation	Status
Suspension of deportation of aliens	8 U.S.C. § 1251	Repealed by Pub. L. No. 104-208, § 308(b)(7), Sep. 30, 1996, 110 Stat. 3009-615.

Category 9—Financial Disclosure and Conflict of Interest

Subject	1997 Statutory Citation	Status
Alternative Agricultural Research and Commercialization Corporation—Board of Directors, Employees, and Facilities	7 U.S.C. § 5903	Repealed by Pub. L. No. 107-171, § 6201(a), May 13, 2002, 116 Stat. 418.

Category 10—Crimes and Family Violence

Subject	1997 Statutory Citation	Status
Interstate violation of a protection order	18 U.S.C. § 2262	Amended by Pub. L. 106-386, § 1107, Oct. 28, 2000, 114 Stat. 1464; reference to marital status removed.
Narcotic addict rehabilitation—definitions	42 U.S.C. § 3411	Repealed by Pub. L. No. 106-310, § 3405(b), Oct. 17, 2000, 114 Stat. 1221.
Model state leadership grants for domestic violence intervention	42 U.S.C. § 10415	Repealed by Pub. L. No. 108-36, § 410, June 25, 2003, 117 Stat. 827.

Category 11—Loans, Guarantees, and Payments in Agriculture

Subject	1997 Statutory Citation	Status
Paul Douglas Teaching Scholarships—exceptions to repayment provisions	20 U.S.C. § 1104g	Amended by Pub. L. No. 105-244, § 501, October 7, 1998, 112 Stat. 1581; reference to marital status removed.
Faculty Development Fellowship Program—exceptions to repayment provisions	20 U.S.C. § 1134r-5	Repealed by Pub. L. No. 105-244, § 701, October 7, 1998,112 Stat. 1581.

Subject	1997 Statutory Citation	Status
Vocational education state plans	20 U.S.C. § 2323	Amended by Pub. L. No. 105-332, § 1(b), October 31, 1998,112 Stat. 3076; reference to marital status removed.
Vocational education definitions	20 U.S.C. § 2471	Amended by Pub. L. No. 105-332, § 1(b), October 31, 1998, 112 Stat. 3076; reference to marital status removed.
Agricultural Hall of Fame	36 U.S.C. § 977	Amended by Pub. L. No. 105-354, § 1, Aug. 12, 1998, 112 Stat. 3238; reference to marital status removed.
Audits of Federally Chartered Corporations	36 U.S.C. § 1101	Amended by Pub. L. No. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1253; reference to marital status removed.
Gold Star Wives of America	36 U.S.C. § 1602	Amended by Pub. L. No. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1253; replaced provision's reference to "gold wives" with "corporation". (The name of the organization continues to be the Gold Star Wives of America.)
Navy Wives Clubs of America	36 U.S.C. § 2802	Amended by Pub. L. No. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1436; replaced provision's reference to "Navy Wives" with "corporation". (The name of the organization continues to be the Navy Wives Clubs of America.)
Aviation Hall of Fame	36 U.S.C. § 4307 and § 4309	Amended by Pub. L. No. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1312. These provisions' references to "survivors" were deleted.
Membership of Martin Luther King, Jr., Federal Holiday Commission	36 U.S.C. § 169j-3	Repealed by Pub. L. No. 105-225, § 6, Aug. 12, 1998, 112 Stat. 1253.
Testing and other early intervention services for state prisoners	42 U.S.C. § 300ff-48	Repealed by Pub. L. No. 106-345, § 301(a), Oct. 20, 2000, 114 Stat. 1345.
Programs for older Americans—Demonstration projects	42 U.S.C. § 3035a	Provision was omitted by Pub. L. No. 106-501, Nov. 13, 2001, 114 Stat. 2257.

APPENDIX 3

Tables of Statutory Provisions Identified in 1997 Report as Involving Marital Status That Have Been Relocated in the United States Code

Category 1—Social Security and Related Programs, Housing, and Food Stamps

Subject	1997 Statutory Citation	Status
Alien's eligibility for benefits	42 U.S.C. § 615	Relocated to 42 U.S.C. § 608(f)

Category 2—Veterans' Benefits

Subject	1997 Statutory Citation	Status
Medical care for survivors and dependents of certain veterans	38 U.S.C. § 1713	Relocated to 38 U.S.C. § 1781

Category 4—Federal Civilian and Military Service Benefits

Subject	1997 Statutory Citation	Status
House of Representatives Child Care Center	40 U.S.C. § 184g	Relocated to 2 U.S.C. § 2062
National Oceanic and Atmospheric Administration commissary privileges	33 U.S.C. § 857-4	Relocated to 33 U.S.C. § 3074
Gratuities for survivors of deceased House employees; computation	40 U.S.C. § 166b-4	Relocated to 2 U.S.C. § 125
Senate employee child care benefits	40 U.S.C. § 214d	Relocated to 2 U.S.C. § 2063

Category 5—Employment Benefits and Related Statutory Provisions

Subject	1997 Statutory Citation	Status
Job training partnership—definitions	29 U.S.C. § 1503	Relocated to 29 U.S.C. § 2801

Category 6—Immigration, Naturalization, and Aliens

Subject	1997 Statutory Citation	Status
Deportable aliens	8 U.S.C. § 1251	Relocated to 8 U.S.C. § 1227

Category 7—Indians

Subject	1997 Statutory Citation	Status
Indian land consolidation—Descent and distribution	25 U.S.C. § 2205	Relocated to 25 U.S.C. § 2206

Category 9—Financial Disclosure and Conflict of Interest

Subject	1997 Statutory Citation	Status
Appalachian Regional Commission—personal financial interests	40 U.S.C. § 108	Relocated to 40 U.S.C. § 14309

Category 10—Crimes and Family Violence

Subject	1997 Statutory Citation	Status
Family violence prevention and Services—definitions	40 U.S.C. § 10408	Relocated to 40 U.S.C. § 10421

Category 13—Miscellaneous Statutory Provisions

Subject	1997 Statutory Citation	Status
Marine Corps League	36 U.S.C. § 57a	Relocated to chapter 2301 § 140102
Veterans of Foreign Wars of the United States	36 U.S.C. § 113	Relocated to chapter 2301 § 230102
Legion of Valor of the United States of America	36 U.S.C. § 633	Relocated to chapter 1303 § 130302
Veterans of World War I of the United States of America	36 U.S.C. § 763	Relocated to chapter 2303 § 230302
The Congressional Medal of Honor Society of the United States	36 U.S.C. § 793 and § 799	Relocated to chapter 405 § 40502 and § 40506
Blinded Veterans Association	36 U.S.C. § 859	Relocated to chapter 303 § 30307
National Woman's Relief Corps, Auxiliary to the Grand Army of the Republic	36 U.S.C. § 1005	Relocated to chapter 1537 § 153703
Gold Star Wives of America	36 U.S.C. § 1601	Relocated to *c*hapter 805 § 80502
American Ex-Prisoners of War	36 U.S.C. § 2103	Relocated to chapter 209 § 20903
Catholic War Veterans of the United States of America, Inc.	36 U.S.C. § 2603	Relocated to chapter 401 § 40103
Navy Wives Clubs of America	36 U.S.C. §2801 and § 2803	Relocated to chapter 1545, § 154502 and §154503.
Army and Navy Union of the United States	36 U.S.C. § 3903	Relocated to chapter 229 § 22903
Non-Commissioned Officers Association of the United States	36 U.S.C. § 4003	Relocated to chapter 1547 § 4003
Retired Enlisted Association, Incorporated	36 U.S.C. § 5103	Relocated to chapter 1903 § 190303
National Fallen Firefighters Foundation	36 U.S.C. § 5201	Relocated to Chapter 1513 § 151302
Public Health Service grants for services of substance abusers	42 U.S.C. § 280d	Relocated to 42 U.S.C. § 290bb-25
Programs for older Americans—state plans	42 U.S.C. § 3035	Relocated to 42 U.S.C. § 3027

APPENDIX 4
CATEGORIES OF STATUTORY PROVISIONS

CATEGORY 1—SOCIAL SECURITY AND RELATED PROGRAMS, HOUSING, AND FOOD STAMPS

This category includes the major federal health and welfare programs, particularly those considered entitlements, such as Social Security retirement and disability benefits, food stamps, welfare, and Medicare and Medicaid. Most of these provisions are found in Title 42 of the United States Code, Public Health and Welfare; food stamp legislation is in Title 7, Agriculture.

CATEGORY 2—VETERANS' BENEFITS

Veterans' benefits, which are codified in Title 38 of the United States Code, include pensions, indemnity compensation for service-connected deaths, medical care, nursing home care, right to burial in veterans' cemeteries, educational assistance, and housing. Husbands or wives of veterans have many rights and privileges by virtue of the marital relationship.

CATEGORY 3—TAXATION

While the distinction between married and unmarried status is pervasive in federal tax law, terms such as "husband," "wife," or "married" are not defined. However, marital status figures in federal tax law in provisions as basic as those giving married taxpayers the option to file joint or separate income tax returns. It is also seen in the related provisions prescribing different tax consequences, depending on whether a taxpayer is married filing jointly, married filing separately, unmarried but the head of a household, or unmarried and not the head of a household.

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

This category includes statutory provisions dealing with current and retired federal officers and employees, members of the Armed Forces, elected officials, and judges, in which marital status is a factor. Typically these provisions address the various health, leave, retirement, survivor, and insurance benefits provided by the United States to those in federal service and their families.

CATEGORY 5—EMPLOYMENT BENEFITS AND RELATED PROVISIONS

Marital status comes into play in many different ways in federal laws relating to employment in the private sector. Most provisions appear in Title 29 of the United States Code, Labor.

However, others are in Title 30, Mineral Lands and Mining; Title 33, Navigation and Navigable Waters; and Title 45, Railroads. This category includes laws that address the rights of employees under employer-sponsored employee benefit plans; that provide for continuation of employer-sponsored health benefits after events like the death or divorce of the employee; and that give employees the right to unpaid leave in order to care for a seriously ill spouse. In addition, Congress has extended special benefits in connection with certain occupations, like mining and public safety.

CATEGORY 6—IMMIGRATION, NATURALIZATION, AND ALIENS

This category includes federal statutory provisions governing the conditions under which noncitizens may enter and remain in the United States, be deported, or become citizens. Most are found in Title 8, Aliens and Nationality. The law gives special consideration to spouses of immigrant and nonimmigrant aliens in a wide variety of circumstances. Under immigration law, aliens may receive special status by virtue of their employment, and that treatment may extend to their spouses. Also, spouses of aliens granted asylum can be given the same status if they accompany or join their spouses.

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CATEGORY 7—INDIANS

The indigenous peoples of the United States have long had a special legal relationship with the federal government through treaties and laws that are classified to Title 25, Indians. Various laws set out the rights to tribal property of "white" men marrying "Indian" women, or of "Indian" women marrying "white" men. The law also outlines the descent and distribution rights for Indians' property. In addition, there are laws pertaining to health care eligibility for Indians and spouses and reimbursement of travel expenses of spouses and candidates seeking positions in the Indian Health Service.

CATEGORY 8—TRADE, COMMERCE, AND INTELLECTUAL PROPERTY

This category includes provisions concerning foreign or domestic business and commerce, in the following titles of the United States Code: Bankruptcy, Title 11; Banks and Banking, Title
12; Commerce and Trade, Title 15; Copyrights, Title 17; and Customs Duties, Title 19. This category also includes the National Housing Act (rights of mortgage borrowers); the Consumer Credit Protection Act (governs wage garnishment); and the Copyright Act (spousal copyright renewal and termination rights).

CATEGORY 9—FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

Federal law imposes obligations on members of Congress, employees or officers of the federal government, and members of the boards of directors of some government-related or government chartered entities, to prevent actual or apparent conflicts of interest. These individuals are required to disclose publicly certain gifts, interests, and transactions. Many of

these requirements, which are found in 16 different titles of the United States Code, apply also to the individual's spouse.

CATEGORY 10—CRIMES AND FAMILY VIOLENCE

This category includes laws that implicate marriage in connection with criminal justice or family violence. The nature of these provisions varies greatly. Some deal with spouses as victims of crimes, others with spouses as perpetrators. These laws are found primarily in Title 18, Crimes and Criminal Procedure, but some statutory provisions, dealing with crime prevention and family violence, are in Title 42, Public Health and Welfare.

CATEGORY 11—LOANS, GUARANTEES, AND PAYMENTS IN AGRICULTURE

Under many federal loan programs, a spouse's income, business interests, or assets are taken into account for purposes of determining a person's eligibility to participate in the program. In other instances, marital status is a factor in determining the amount of federal assistance to which a person is entitled or the repayment schedule. This category includes education loan programs, housing loan programs for veterans, and provisions governing agricultural price supports and loan programs that are affected by the spousal relationship.

CATEGORY 12—FEDERAL NATURAL RESOURCES AND RELATED PROVISIONS

Federal law gives special rights to spouses in connection with a variety of transactions involving federal lands and other federal property. These transactions include purchase and sale of land by the federal government and lease by the government of water and mineral rights.

CATEGORY 13—MISCELLANEOUS PROVISIONS

This category comprises federal statutory provisions that do not fit readily in any of the other 12 categories. Federal provisions that prohibit discrimination on the basis of marital status are included in this category. This category also includes various patriotic societies chartered in federal law, such as the Veterans of Foreign Wars or the Gold Star Wives of America.

April 2004

STATE DEPARTMENT: Issues Affecting Funding of Iraqi National Congress Support Foundation

United States General Accounting Office

GAO

Report to Congressional Requesters

April 2004

STATE DEPARTMENT

Issues Affecting Funding of Iraqi National Congress Support Foundation



GAO-04-559

April 2004

STATE DEPARTMENT

Issues Affecting Funding of Iraqi National Congress Support Foundation

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-04-559, a report to congressional requesters

Why GAO Did This Study

As part of the efforts by the United States to oust Saddam Hussein, a critical element of U.S. policy included funding the Iraqi National Congress as the lead Iraqi opposition coalition. In 1999, the Iraqi National Congress Support Foundation (INCSF) was established to provide an organizational structure for Department of State funding. From March 2000 until September 2003, the Department of State funded several INCSF programs, including television broadcasting. INCSF's broadcasting goals included broadcasts into Iraq focusing on providing the Iraqi people unbiased news and information and updating them on efforts to bring democracy to Iraq.

GAO was asked to review (1) the history of the Department of State's funding of INCSF broadcasting activities and (2) the key issues affecting State's funding decisions.

What GAO Found

State's funding of INCSF programs totaled nearly $33 million for the period March 2000 through September 2003. This money was made available through 23 cooperative agreements and amendments that provided short-term funding at irregular intervals. The funds were provided for several purposes, including establishing new satellite television capability (Liberty TV), newspaper publication, and information collection programs. About $10 million was earmarked for Liberty TV broadcasting activities, which included hiring staff, establishing studio operations, and actual broadcasting. There were several periods during which State did not have an agreement to fund INCSF's program, causing State to later fund INCSF activities retroactively. State's funding approach affected INCSF's ability to conduct television broadcast operations. Liberty TV broadcasted from August 2001 to May 2002, when funding shortages caused by funding and policy disputes between State and INCSF resulted in termination of broadcasting. Attempts to restart Liberty TV failed due to a combination of factors, including continued disagreements between INCSF and State over funding requirements for the broadcasts, the rapidly changing conditions associated with the war in Iraq, and INCSF's relocation of operations to Iraq in May 2003. INCSF repeatedly complained to State that the short-term nature of the funding agreements made it difficult to run an effective television broadcasting operation.

State cited three reasons why it was unable to reach long-term funding agreements with INCSF: (1) State was concerned about INCSF's accountability for funds and operational costs, based largely on results of audits of INCSF, and remained concerned even after INCSF took steps to improve its accountability during late 2001 and 2002; (2) INCSF resisted U.S. government policy prohibiting INCSF operations inside Iraq; and (3) State questioned both the usefulness of INCSF's information collection program and whether it was appropriate for State to fund it. (In May 2002 State decided to drop its funding for the information collection program, effective August 2002.) Against this background and the sporadic funding arrangements that characterized the program, the process of proposal and counterproposal continued without producing agreements that could lead to restarting Liberty TV. Through their inability to work together to restart Liberty TV, State and INCSF missed a chance to reach the Iraqi people at critical times prior to and during the March 2003 war in Iraq.

www.gao.gov/cgi-bin/getrpt?GAO-04-559.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Jess Ford at (202) 512-4268 or fordj@gao.gov.

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Abbreviations

INC	Iraqi National Congress
INCSF	Iraqi National Congress Support Foundation
OIG	Office of the Inspector General

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GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, D.C. 20548

April 30, 2004

The Honorable Norm Coleman
Chairman
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate

The Honorable Sam Brownback
The Honorable Jon Kyl
The Honorable Rick Santorum
United States Senate

As part of long-standing efforts by the United States to oust Saddam Hussein, the Iraq Liberation Act of 1998[1] noted that regime change in Iraq should be the policy of the United States. Consistent with that act and other legislation, a critical element of U.S. policy included funding the Iraqi National Congress as the lead Iraqi opposition coalition. In 1999, the Iraqi National Congress Support Foundation (INCSF) was established to provide an organizational structure for Department of State funding. From March 2000 until September 2003, the State Department provided funds to the INCSF for several programs, including planning for the renewal of Radio Hurriah broadcasts and establishing new satellite television capability (Liberty TV), newspaper publication, and public information and information collection programs.[2] INCSF's broadcasting goals included direct radio and television broadcasts into Iraq focusing on providing the Iraqi people unbiased news and information and updating them on efforts to bring democracy to the country.

In response to your questions about the amounts and timing of Department of State funding for INCSF broadcasting activities, this report (1) describes the history of the Department of State's funding of INCSF broadcasting activities and (2) examines the key issues affecting State's funding decisions for the broadcasting programs. To perform our work, we reviewed State's cooperative agreement documents with the INCSF and

[1]Public Law 105-338.

[2]The INCSF's information collection program consisted of INCSF field officers stationed in countries surrounding Iraq maintaining contact with Iraqi dissidents living inside Iraq and collecting information from them on the political, economic, and military activities of Saddam Hussein's regime.

met with State officials in the Bureau of Near Eastern Affairs and the Bureau of Administration. We also examined audit files in State's Office of the Inspector General (OIG) and met with OIG officials.[3] In addition, we met with a consultant hired by INCSF to help improve the foundation's accounting and financial management systems and who frequently acted as a representative on behalf of INCSF in discussions with State, and we obtained information from INCSF's former controller and from its Liberty TV manager. To assess the reliability of the data used in this report, we reviewed relevant documents and obtained necessary information from State and INCSF personnel. We conducted our review from September 2003 to April 2004 in accordance with generally accepted government auditing standards. (See p. 16 for the details of our scope and methodology.)

Results in Brief

State's funding of cooperative agreements for INCSF totaled nearly $33 million for the period March 2000 through September 2003 when State's funding ended. This money was made available through 23 cooperative agreements and amendments that provided short-term funding at irregular intervals. Moreover, there were several periods during which State did not have an agreement to fund INCSF's program, causing State to later fund INCSF activities retroactively. State's funding approach affected INCSF's ability to conduct broadcast operations. State provided seed money for radio broadcasting but did not provide additional funding because it could not identify a location for a transmitter that was acceptable to both State and the INCSF. About $10 million was earmarked for Liberty TV broadcasting activities, which included hiring staff, establishing studio operations, and broadcasting. Liberty TV broadcasted from August 2001 to May 2002, when funding shortages caused by funding and policy disputes between State and INCSF resulted in termination of broadcasting. Attempts to restart Liberty TV failed due to a combination of factors, including continued disagreements between INCSF and State over funding requirements for the broadcasts, the rapidly changing conditions associated with the war in Iraq, and INCSF's relocation of operations to Iraq in May 2003. INCSF repeatedly complained to State that the short-term nature of the funding agreements made it difficult to run an effective broadcasting operation.

[3]OIG conducted two audits of INCSF: *Review of Awards to Iraqi National Congress Support Foundation* (01-FMA–R-092, September 2001) and *Follow Up Review of Iraqi National Congress Support Foundation* (AUD/CG-02-44, September 2002).

State cited three reasons why it was unable to reach long-term funding agreements with INCSF: (1) State was concerned about INCSF's accountability for funds and operational costs, based largely on results of audits, and remained concerned even after INCSF took steps to improve its accountability during late 2001 and 2002; (2) INCSF resisted U.S. government policy prohibiting INCSF operations inside Iraq; and (3) State questioned both the usefulness of INCSF's information collection program[4] and whether it was appropriate for State to fund it. (In May 2002, State decided to drop its funding for this program.) Against this background and the sporadic funding arrangements that characterized the program, the process of proposal and counterproposal continued without producing agreements that could lead to restarting Liberty TV. Through their inability to work together to restart Liberty TV, State and INCSF missed a chance to reach the Iraqi people at critical times prior to and during the March 2003 war in Iraq.

Background

The Iraq Liberation Act of 1998 authorized U.S. assistance to support a transition to democracy in Iraq in key areas, including radio and television broadcasting. In 1999 President Clinton designated the Iraqi National Congress (INC) as eligible to receive assistance under the act.[5] INC was formed in the early 1990s when the two main Kurdish militias—the Kurdistan Democratic Party and the Patriotic Union of Kurdistan—participated in a June 1992 meeting of dozens of opposition groups in Vienna.[6] INC subsequently developed into a broad-based coalition of political organizations opposed to Saddam Hussein. In 1999, INCSF was established as a foundation to provide support to INC and to provide an organizational structure for State's funding of INC.[7] A seven-member board of directors (the INC Leadership Council) governed INCSF. INCSF was

[4]INCSF intended its information collection program to gather data on several issues, including the Hussein government's military, political, and economic activities, and information about its alleged weapons of mass destruction programs and its ties to terrorist groups.

[5]Subsequent funding for INC came from appropriations made to carry out the Economic Support Fund provisions of the Foreign Assistance Act of 1961, as amended.

[6]In October 1992, major Shiite Islamic groups joined the coalition.

[7]INCSF was established as a foundation to provide administrative, financial, and other support to the Iraqi National Congress and was incorporated as a nonprofit organization in August 1999 in the state of Delaware.

headquartered in London, England, until the end of the war, when its operations were relocated to Baghdad. During its cooperative agreements with State, INCSF also maintained field offices in Washington, D.C.; Damascus, Syria; and Tehran, Iran. In April and May 2003, INCSF began the process of relocating its offices to Baghdad.

From the beginning of its relationship with State, INCSF's plans for broadcasting into Iraq represented one of its major initiatives, along with plans for resuming publication of a newspaper INC had established in 1992, participating in Department of Defense training programs, and establishing humanitarian and information collection programs. INCSF envisioned radio as a key medium for the dissemination of information to the Iraqi people. It planned to reestablish Radio Hurriah and have a signal receivable in Iraq by early 2001.[8] To expand the area of coverage, INCSF also planned to purchase a high-power transmitter in Iraq. Radio broadcasting was to focus on news, current affairs, and programs dedicated to democracy and human rights. Based on its prior television experience (from August 1993 to August 1996, INC operated a television production and transmission facility in Iraqi Kurdistan), INCSF's plans for Liberty TV included setting up a studio in London and using satellite equipment to broadcast directly to Iraq. Planned programming included news, current affairs, and programs censored by the regime in Baghdad.

State's Funding Was Generally Provided on a Short-term Basis

Beginning in March 2000, State entered into a series of cooperative agreements with INCSF that included funding totaling nearly $33 million as of September 2003, but most of this funding came under agreements and amendments provided at irregular intervals, involved some retroactive funding, and were short-term and thus affected INCSF's ability to broadcast. Table 1 describes State's cooperative agreements with INCSF in further detail.

[8]Until 1996, INC had operated Radio Hurriah from a U.S. government tower in Kuwait and broadcast into Iraq in Arabic for 14 hours daily.

Table 1: Description of State's Cooperative Agreements with INCSF

Agreement	Award date	Effective date	Agreement period	Amount	Purpose
1	3/31/00	3/31/00	3/31/00 to 9/31/00	$267,784	Establish INCSF office and develop plan/proposal for long-term U.S. support
Amendment 1	9/19/00	3/31/00	(No change)	0	Administrative change to revise budget with no additional funds or change in performance period
Amendment 2	[a]	[a]	Extended to 11/30/00	0	Extend agreement period
Amendment 3	[a]	[a]	(No change)	0	To reflect new address of recipient
2	9/29/00	9/29/00	9/29/00 to 2/28/01	$4 million	Support INCSF's programs, including headquarters and regional operations, broadcasting, humanitarian activities, and information collection
Amendment 1	2/28/01	2/28/01	Extended to 3/31/01	0	Extend agreement period
Amendment 2	3/30/01	3/31/01	Extended to 5/31/01	0	Extend agreement period
Amendment 3	5/30/01	6/1/01	Extended to 6/30/01	0	Extend agreement period
Amendment 4	6/29/01	6/29/01	Extended to 9/30/01	$4 million	Continue funding of INCSF's core programs
Amendment 5	6/29/01	6/29/01	No change	$2 million	Continue funding of INCSF's core programs
Amendment 6	9/29/01	9/30/01	Extended to 10/15/01	0	Extend agreement period
Amendment 7	10/15/01	10/15/01	Extended to 10/31/01	0	Extend agreement period
Amendment 8	10/31/01	10/15/01	Extended to 11/15/01	0	Extend agreement period
Amendment 9	12/04/01	11/01/01	Extended to 12/31/01	$1.7 million	Continue funding of INCSF's core programs
Amendment 10	2/08/02	1/1/02	Extended to 3/31/02	$2.9 million	Continue funding of INCSF's core programs
Amendment 11	8/20/02	3/31/02	No change	$900,000	Add funds in August 2002 for "prior expenses"
3 "bridge grant"	5/17/02	4/1/02	4/01/02 to 5/31/02	$2.4 million	"Austerity budget" support for personnel, direct services, television, newspaper, and other costs
4	11/15/02	6/1/02	11/15/02 to 1/31/03; providing pre-award costs from 6/01/02 to 1/31/03	$6.58 million	Renew funding for headquarters and regional operations, television costs (including returning Liberty TV to the air), humanitarian activities, newspaper, and trainee expenses

(Continued From Previous Page)

Agreement	Award date	Effective date	Agreement period	Amount	Purpose
Amendment 1	No date[b]	12/12/02	Signed 2/05/03	$282,042	Add funds and authorize London conference expenses
Amendment 2	3/02/03	1/23/03	Extended to 7/31/03	0	Extend agreement period
Amendment 3	6/2/02	2/5/03	2/05/03 to 7/31/03	$7 million	Continue funding of agreement categories except humanitarian
Amendment 4	10/30/03	7/31/03	Extended to 9/30/03	0	Extend agreement period
5	11/15/02	6/1/02	6/01/02-7/31/02	$619,800	Transition costs for information collection program, until another agency could begin funding
Total				**$32.65 million**	

Source: GAO analysis of State Department data.

[a]Information not available in State's files.

[b]According to State, the amendment was undated but covered specific costs incurred during December 2002.

Agreement 1 laid the groundwork for initial planning, and Agreement 2 described what INCSF hoped to achieve in the broadcasting area. These goals included (1) setting up a satellite television facility in London to broadcast directly into Iraq and (2) planning and preparing to resume broadcasting of Radio Hurriah from inside Iraq and via satellite and the Internet. From March 2000 through May 2002, State provided about $17 million to INCSF through the first two cooperative agreements and amendments and Agreement 3 (the 2-month "bridge grant" for April and May 2002).[9] Of this $17 million, only limited funding was for Radio Hurriah, largely because an acceptable location for a transmitter could not be found. About $5 million was earmarked for Liberty TV broadcasting activities, which included hiring staff and establishing studio operations. Liberty TV broadcasting actually began in August 2001. However, upon becoming operational, Liberty TV encountered technical problems that forced it to broadcast from the United States based on a signal transfer from London. Liberty TV had goals of original broadcasting for 24 hours a day, but at the peak of its operations it only had original broadcasts of 4 hours. It went off the air on May 1, 2002, because of funding disputes between State and INCSF which, according to an INCSF representative, left the INCSF seriously short of funds to pay its bills. After the bridge grant expired on May 31, 2002, State and INCSF did not conclude a new agreement until

[9]This total excludes $900,000 provided under amendment 11 in August 2002.

November 2002.[10] Funding in that new cooperative agreement (Agreement 4) and its amendments included about $4.67 million for (1) restarting Liberty TV and (2) "pre-award" costs incurred by INCSF for the period not under the agreement, including salaries for Liberty TV staff retained by INCSF.

Parties Made Serious Attempts to Reach Long-term Accord but Were Unable to Do So

In the course of the relationship between the two parties, State several times offered INCSF longer-term agreements that INCSF would not accept. For example, for the period March 2000 through February 2001, State and INCSF had concluded the first two cooperative agreements totaling about $4.27 million. In April 2001, as an alternative to short-term amendments to Agreement 2, INCSF requested a new 5-month agreement totaling $29 million that included funding for 24-hours-a-day satellite television broadcasting, installation of a small transmitter in Iraq, and 24-hours-a-day radio broadcasting from inside Iraq. State rejected the proposal. Similarly, in September 2001, INCSF requested $23 million over 5 months. According to the proposal, Liberty TV operations would be expanded to 24 hours a day, and radio operations would be initiated via a transmitter inside Iraq. State rejected INCSF's proposal but in late September 2001 made a counteroffer of $8 million for a 5-month cooperative agreement. State renewed the same offer in early November 2001. While emphasizing that it was not prepared to fund INCSF activities inside Iraq, State did offer to fund a series of activities, including publication of the newspaper, satellite TV broadcasting, information collection analysis, and startup of radio broadcasting using a transmitter based in Iran. INCSF declined State's offer.

[10]In August 2002, State provided an additional $900,000 under Amendment 11 to Agreement 2, for expenses incurred through March 31, 2002.

Inability to Reach Long-term Agreements Centered on Concerns over Financial Management, Operations in Iraq, and Information Collection

Three main concerns affected State's funding decisions for INCSF and thwarted the parties' ability to negotiate and conclude long-term funding agreements: concerns over INCSF's financial management and accountability based largely on the results of audits of INCSF; the desire of INCSF to operate inside Iraq, which was inconsistent with U.S. policy; and State's increasing concerns about the appropriateness and merits of funding INCSF's information collection program. State officials acknowledged that the use of frequent short-term amendments to the cooperative agreements, plus the substantial period of time that an agreement was not in force in 2002, significantly complicated management of the program and made it difficult for INCSF to accomplish its objectives. However, State officials said that these arrangements were necessary in view of the financial management, policy, and operational issues that arose during the program. INCSF repeatedly claimed that the short-term nature of State's funding led to financial problems in the organization and disrupted Liberty TV's ability to pay its bills.

Financial Management and Accountability Concerns

In the very early stages of State's agreements with INCSF, State received strong indications that INCSF had inadequate controls over cash transfers. For example, in 2000, a CPA firm reviewed INCSF's controls as part of Agreement 1. The review identified concerns about INCSF's travel reimbursement procedures, use of non-U.S. flag-carriers, and its cash payment practices. Also that year, State notified INCSF that it needed to rectify certain compliance issues before it could draw down funds. These issues included INCSF's lack of proper documentation to support expenditures and the questionable use of cash payments. In early 2001, another CPA audit examined INCSF's operations as part of State's agreements and identified significant noncompliance and control issues affecting implementation of Agreement 2. According to a State document, the auditor "appear[ed] to confirm what we [State] suspected—that the INCSF is not complying with the myriad of regulations that grantees are required to comply with."

Audit by State's Inspector General

Concern grew in State that there were serious mishandling of money issues that needed to be examined in INCSF to avoid a potentially embarrassing situation for the administration and for State. In early 2001, some allegations about fraud within INCSF also circulated within State. State's concerns about accountability and the potential for misuse of funds led to an audit of INCSF by State's Office of the Inspector General (OIG) in mid-2001. The OIG audit covered the initial $4.3 million in awards to INCSF

under Agreements 1 and 2. The OIG found serious financial management and internal control weaknesses, particularly in the cash management aspects of INCSF's information collection program.[11] The OIG also found that INCSF had an inadequate accounting and financial management structure, insufficient accounting staff, and inadequate banking procedures and that State had not created a total budget for the second cooperative agreement incorporating the funding that had been awarded to the INCSF up to that point. The OIG questioned approximately $2.2 million in INCSF costs. As a result, the OIG recommended that State withhold, or at least restrict, future funding to INCSF until it implemented adequate and transparent financial controls. The OIG also recommended that INCSF acquire expert financial management assistance to set up a standardized accounting system, hire a financial officer, establish cash management procedures, develop written accounting policies and procedures, and incorporate into its agreements with State a budget that accurately reflected approved costs. Although several accounting and internal control weaknesses were identified, OIG officials said that they found no evidence concerning the prior accusations of fraud. An INCSF representative acknowledged that it had financial management and accountability weaknesses in the early stages of the agreements. However, the representative believed that INCSF made significant improvements in late 2001 and early 2002 to correct the weaknesses and to respond to the OIG audit.

OIG officials said that their audits of INCSF were done in accordance with generally accepted government audit standards and that their work was similar to other grant and cooperative agreement audits they had conducted.

Concerns about Operations in Iraq and Information Collection

From the beginning of its relationship with INCSF, State had policy concerns that ultimately affected funding decisions and plans for several programs, including Radio Hurriah and Liberty TV. At the beginning of the cooperative agreements with INCSF, State officials said that the U.S. government had adopted a general policy of prohibiting INCSF operations inside Iraq. State officials said that the presence of U.S.-funded INCSF staff within Iraq could open the door to potentially disastrous diplomatic

[11]For example, the OIG found nearly $600,000 in unsupported cash transactions in the first audit. The OIG described the situation as including questionable disbursement policies and limited documentation.

situations if INCSF operatives were caught and/or killed by Iraqi troops. INCSF resisted this policy. From INCSF's perspective, working inside Iraq was vital for the success of many of its programs. To begin radio broadcasting inside Iraq, INCSF wanted to purchase and install a suitable transmission tower within the country. The INCSF also wanted the existing information program to collect data on the Hussein government's military, political, and economic activities for input into its newspaper, *Al Mutamar*, and for Liberty TV broadcasts. In addition, INCSF believed that elements of that data could be used in its diplomatic activities to reinforce views of the international community that the Hussein government represented a danger to its neighbors. Further, INCSF saw the program as an effort to gather information on the government's alleged weapons of mass destruction programs and its ties with international terrorist groups. However, State maintained its position, refusing to fund radio activities inside Iraq and limiting its funding of information collection to areas outside and bordering Iraq. In commenting on a draft of this report, State noted that, as the grantor, it had entire discretion to determine whether a grant to the INCSF would further and be consistent with U.S. government policies, and to condition any such grant to ensure that it would. State further believed that as a grantee, INCSF was an instrument of U.S. government policy, and, as such, was not in a position to disagree with State on how State's funds could be used.

In addition to concerns about operating inside Iraq, State's OIG had questioned the nature of INCSF's information program and its lack of controls over cash transactions, particularly those that were used as part of activities in the field. In State's view, the potential for fraud in an officially State-sponsored program posed a risk that State was not prepared to take. Finally, State officials doubted the value of the information obtained through the program, a claim that the INCSF vigorously disputed.

Continued Efforts to Reach Long-term Agreements

As these financial management and policy issues were emerging, State and INCSF continued their efforts to conclude new long-term agreements, with little success. For example, in fall 2001, State offered INCSF an $8 million agreement for 5 months that would provide television and radio funding but did not fund operations in Iraq. INCSF did not accept State's proposal, largely because it held firm to the position that not letting INCSF operate inside Iraq would result in the disintegration of the organization. In February 2002, INCSF proposed another long-term agreement totaling $37.5 million covering March through December 2002. As part of that proposal, INCSF believed that several elements of INCSF's mission needed

to be addressed by both parties, including the lack of a complete INCSF communications strategy without a radio program and the need for a higher-quality television operation. In addition, INCSF believed it was imperative that its information collection program be expanded to ensure timely and reliable intelligence on developments inside Iraq and provide critical information on Saddam's alleged weapons of mass destruction program and involvement in international terrorism. State determined around mid-March that the proposal was incomplete and, because INCSF indicated that it needed funds quickly, recommended that the overall proposal be considered in stages, with the first priority to get current operations in order, including Liberty TV.[12]

In late March 2002, State said it stood ready again to discuss a cooperative agreement for 9 months (April through December 2002), with an initial period funded at $3.6 million for 3 months to provide funding continuity until full accord on the elements of the agreement could be achieved. Concerning INCSF's continuing proposals for starting up radio operations, State said that INCSF's proposals were no longer a priority because (1) the Kurdish Democratic Party and the Patriotic Union of Kurdistan opposed the plans and (2) both of those groups operated radio stations in Iraq, and the United States funded its own Radio Free Iraq. INCSF believed that State's response to its proposal called into question State's commitment to a new relationship and its general commitment to the INCSF. Of significant concern to INCSF were State's demands for a short-term (3-month) funding period, as well as its continuing lack of support for a radio station.

Negotiating Stalemate in May 2002

In lieu of a long-term agreement, State notified INCSF that it planned to award Agreement 3, referred to as the "bridge grant," for 2 months (April through May 2002). State viewed its proposal as an austerity budget that would enable INCSF to get its house in order, including Liberty TV, and notified INCSF that what State considered as cost overruns under the prior grant would be handled with one or more "mop-up" amendments.[13] As discussed below, INCSF regarded its unpaid bills as resulting from a failure on State's part to meet its funding obligations. State's initial proposal for

[12]State officials visited Liberty TV in late 2001 and identified significant management and personnel issues.

[13]In August 2002, State provided INCSF an additional $900,000 to cover expenses incurred under the last amendment to Agreement 2.

the bridge grant caused great concern in INCSF for several reasons. First, it called for "heightened federal stewardship," including on-site State participation in INCSF's budget management and approval of all costs. INCSF believed that such conditions were unjustified and unacceptable, stating that it had already taken a number of steps to improve financial management consistent with the OIG recommendations. According to INCSF, it had hired internal accounting staff and a management consultant and implemented new and consolidated accounting systems. It also said that new procedures for documenting cash transactions were being installed. According to OIG officials, in a follow-up audit in mid-2002, OIG found that INCSF had taken several steps to implement recommendations for improved financial management and controls but had not fully implemented them. According to OIG officials, limited funding by State contributed to INCSF's difficulties in improving its financial systems. INCSF said that such funding made it difficult for INCSF to pay for implementation of a new accounting system and contributed to delays in making reforms of the foundation's accounting systems.

Discussions between the two parties concerning the bridge grant further illuminated the financial issues faced in the program. Specifically, at the end of April 2002, INCSF complained to State that it had been operating for a month without a funding agreement and had incurred a $2 million shortfall. According to INCSF, that shortfall occurred because State had erroneously estimated INCSF's monthly core operating costs at $850,000 to $900,000 during implementation of Agreement 2, whereas INCSF believed it was operating under a previously approved budget with estimated costs of $1.24 million. Implications for Liberty TV were particularly serious. Because of its financial shortcomings, INCSF had received notice that its service provider would terminate service for Liberty TV on April 30 because INCSF had not paid its bills.[14] On May 1, 2002, Liberty TV stopped its broadcasting operations.

State subsequently modified its proposal and signed the bridge grant agreement on May 17, awarding $2.4 million for the period April to May 2002 but deleting requirements for its on-site participation in budget

[14]According to INCSF documents, Liberty TV managed to stay on the air until May 2002 by delaying payment to suppliers and withholding employees' salaries. However, INCSF said it could not pay many of its bills including satellite TV services, satellite transmission, and news services.

management and approval of costs. Although the grant budget included funding for Liberty TV, broadcasting did not resume.

No Agreement from June to November 2002

INCSF operated without an agreement from June until November 2002, largely due to an impasse between the two parties over the information collection program. At a meeting of top INCSF and State officials in late May 2002, State officials said that the department would no longer fund the information collection program. However, State offered INCSF a new 7-month cooperative agreement totaling $8 million for the period June 10 through the end of 2002 that included about $4.2 million for Liberty TV and represented a substantial increase over the $400,000 per month funding levels previously supported.[15] According to an INCSF representative, INCSF reacted negatively to the proposal for three reasons. First, INCSF negotiators received the proposal in the early morning of May 29, 2002, the day set for U.S./INCSF negotiations and 2 days before the bridge agreement was due to expire. Second, the proposal left INCSF with no funding for operations for the 10 days between the end of the bridge grant on May 31, 2002, and the effective date of the proposed new agreement on June 10, 2002. Third, and most important, INCSF was not willing to accept an agreement without funding for the information collection program.

INCSF documents indicated that INCSF was in serious financial difficulty by October 2002, with staff being evicted and landlords threatening legal action.[16] Several freelance employees of Liberty TV were released, but Liberty TV core staff were retained in the belief that State remained committed to Liberty TV broadcasting. In an attempt to successfully conclude a new agreement, INCSF sent a draft budget proposal to State that would cover costs from June through December 2002 and envisioned renewed Liberty TV broadcasting as soon as November 2002. State noted, however, that INCSF's proposed budget differed in significant ways from State's proposals and that modifications were needed for it to serve as a basis for a new agreement. State and INCSF were able to successfully conclude a new agreement in November 2002, in part because the Department of Defense agreed to take over funding of the information

[15]State's proposal was in response to INCSF's earlier proposal of April 22, 2002.

[16]Although State provided about $900,000 remaining on Agreement 2, State said that INCSF could not use the funds for expenses incurred after March 31—the closing date for that agreement.

collection program. The new agreement included about $2 million in funding for Liberty TV costs incurred from June through the end of January 2003. However, Liberty TV did not become operational, primarily due to disagreements between State and INCSF over the amount of the funding provided and the time period of State's commitment. Specifically:

- INCSF expressed concern that the new agreement did not include an additional $1 million it requested for long-term investment costs for television operations.[17] State attributed this decision to its unwillingness to fund long-term capital costs and the uncertainty of congressional approval of additional funding for INCSF beyond January 2003. State indicated that one possible option for INCSF might include reducing costs of other budgeted items to cover television costs for one additional month but noted that option did not provide the type of commitment that INCSF was seeking.

- According to INCSF documents and an INCSF representative, the continued negotiations and lack of agreement over costs and commitment time periods for funding Liberty TV delayed resumption of broadcasting. INCSF told State in November 2002 that it was not prepared to begin Liberty TV broadcasts only to go off the air in 3 months. According to an INCSF representative, Liberty TV technically could have renewed limited broadcasting at this time because INCSF had retained many of the professional television staff on its payroll. However, INCSF's representative said it was not willing to run an operation that, if taken off the air once again due to a shortage of funding, would further damage INCSF's credibility.

Agreement Extension Did Not Result in Broadcasts Before and During War

INCSF continued planning for options to restart Liberty TV. INCSF proposed that Liberty TV rent fully operational facilities on a short-term basis rather than invest in its own facilities. Quotes for rental facilities were obtained, and one organization was tentatively selected. In February 2003, State extended the agreement to July 2003, and $7 million was also added to INCSF's funding, including about $2.67 million for television operations. INCSF notified State that it had signed two letters of intent with contractors that it hoped would get Liberty TV on the air: one for television and newspaper premises and another for television satellite

[17]These cost proposals included purchase of a broadcasting studio.

capability. An INCSF official believed that Liberty TV could be operational 2 to 3 days after signing the satellite contract. According to an INCSF representative, these contracts were never signed because the drawdown of funds on the new February amendment was not received until March 12, just a few days before the war began.

INCSF at this point developed yet another strategy: to open offices and install a television and radio station in northern Iraq for a 4-month period commencing upon the issuance of an Iraqi Sanctions Regulations License.[18] According to an INCSF representative, this plan also fell through as the war began, and INCSF decided to move its operations to Baghdad. In early April 2003, State began working with INCSF to support its transition to Iraq, including the redirection of funding already committed to INCSF programs. According to State, those programs should include radio and television broadcasting at a time when it was critically important that Iraqis opposed to Saddam's regime take control of the airwaves. State funding of INCSF continued through September 2003 and funds were available for television operations.[19] According to an INCSF representative, INCSF decided in May 2003 that it did not have a dependable offer from the Department of State to resume Liberty TV broadcasts. Echoing a similar decision in November 2002, INCSF wanted to avoid a second shutdown of Liberty TV due to a gap in State funding. INCSF instead decided to concentrate its energies on establishing offices and hiring support personnel in Baghdad.

Agency Comments and Our Evaluation

The Department of State and INCSF provided written comments on a draft of this report (see apps. I and II). State said that our draft report provided a generally accurate account of the complex and difficult relationship that existed between the Department of State and INCSF. State said its actions with respect to INCSF were responsible and fully in accordance with U.S. law and administration policy. State also said it believed our observation that State and INCSF, through their inability to work together to restart

[18]According to an INCSF document, Treasury had issued several prior licenses to the foundation, including authorizations to transfer money to Iran and to gather informational materials in Iraq.

[19]Of the $13.865 million provided under Agreement 4, about $4.67 million was for television costs for June 2002 through September 2003. According to INCSF, part of the money was used to pay salaries of television staff retained and other nonbroadcast costs, and the remainder was used to help set up INC operations in Baghdad.

Liberty TV, missed a chance to reach the Iraqi people at critical times prior to and during the war in Iraq lay outside the scope of our review. We disagree and believe that it is important to lay out the potential consequences of not successfully restarting Liberty TV, particularly in view of the significance that both State and INCSF attributed to television broadcasting into Iraq. State also provided some technical comments and suggested wording changes, which we have incorporated into the report as appropriate.

INCSF agreed that due to the inability of State and INCSF to work together to restart Liberty TV, important opportunities to broadcast to the Iraqi people were lost. INCSF also provided technical comments on some of the points raised in our draft report concerning financial management, negotiation with State, and Liberty TV funding. We incorporated those comments into our report as appropriate.

Scope and Methodology

To document the history of State's funding for INCSF programs and the issues affecting its funding decisions, we reviewed State's cooperative agreement files. We also reviewed documentation gathered by the OIG as part of its audits. We also obtained files and other documentation from INCSF's consultant. The documentation we reviewed included proposed and finalized cooperative agreements and amendments, letters of correspondence between State and INCSF, and e-mail traffic. We met with officials of State's Bureau of Near Eastern Affairs and Bureau of Administration and also officials in State's OIG who were responsible for audits of INCSF. In addition, we met with the consultant hired by INCSF to help improve the foundation's accounting and financial management systems, and we obtained information from INCSF's former controller and its manager of Liberty TV operations. The funding and related program data in this report were contained in State's cooperative agreement files, OIG audit files, and documentation provided by INCSF's consultant and its former controller and Liberty TV manager. Based on our examination of those data and discussions with State and INCSF's consultant, we concluded that the documents we were able to obtain were sufficiently reliable for purposes of this engagement.

We conducted our review from September 2003 to April 2004 in accordance with generally accepted government auditing standards.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this letter. At that time, we will send copies to the Secretary of State and interested congressional committees. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-4128. Janey Cohen, Richard Boudreau, John Brummet, and Lynn Moore made key contributions to this report.



Jess T. Ford
Director, International Affairs and Trade

Comments from the Department of State



United States Department of State

Assistant Secretary and Chief Financial Officer

Washington, D.C. 20520

APR 20 2004

Ms. Jacqueline Williams-Bridgers
Managing Director
International Affairs and Trade
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "STATE DEPARTMENT: Issues Affecting Funding of Iraqi National Congress Support Foundation," GAO-04-559, GAO Job Code 320223.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Aaron Jost, Iraq Desk Officer, Bureau of Near Eastern Affairs, at (202) 647-5211.

Sincerely,

Christopher B. Burnham

cc: GAO – John Brummet
NEA – James Larocco
State/OIG – Mark Duda
State/H – Paul Kelly

Department of State Comments on GAO Draft Report
STATE DEPARTMENT: Issues Affecting Funding of Iraqi National Congress Support Foundation
(GAO-04-559, GAO Code 320223)

Thank you for the opportunity to review and comment on your draft report "Issues Affecting Funding of Iraqi National Congress Support Foundation." The GAO draft is generally accurate in answering the two issues GAO was asked to review, i.e. the history of State Department's funding of the Iraqi National Congress Support Foundation and the key issues affecting the State Department's funding decisions. However, the report also contains analysis that mischaracterizes the relationship between the State Department and INCSF, and certain hypothetical assertions, which we do not think the GAO is able to demonstrate. The presentation of the history of State funding for INCSF and key issues affecting State's decisions is generally an accurate account of a complex and difficult grant relationship. However, the report implies on page 3 of the draft that INCSF was funded under the Iraqi Liberation Act of 1998. In fact, State funding for INCSF came exclusively from appropriations made to carry out the Economic Support Fund (ESF) provisions of the Foreign Assistance Act of 1961, and was subject to all statutory conditions applicable to the obligation and expenditure of those appropriations.

The draft report also suggests that the relationship between State and the INCSF was one between equals, rather than one between grantor and grantee. As grantor, State had entire discretion to determine whether a grant to the INCSF would further and be consistent with U.S. Government policies, and to condition any such grant to ensure that it would. As a grantee, INCSF was an instrument of U.S. Government policy, and as such was not in a position to "disagree" with State on how State's funds could be used. It was U.S. Government policy that ESF not be used to fund INCSF operations inside Iraq. The first sentence of the second paragraph of the report's "What GAO Found" section, point (2) would more accurately state, "INCSF would not accept U.S. Government policies upon which the availability of funding was conditioned." The fourth sentence of the second paragraph of page 2 might better begin with "INCSF's continued refusal of the terms for the grant proposed by State affected/prevented…" The first full sentence on page 8 would be more accurate if it stated, "INCSF declined State's offer."

The last sentence in the draft report's "What GAO Found" section (repeated in the second paragraph on page 3) lies outside the scope of what GAO was asked to review.

More broadly, we take this opportunity to reiterate that State's actions with respect to the INCSF were responsible and fully in accordance with U.S. law and Administration policy.

Comments from the Iraqi National Congress Support Foundation

المؤتمر الوطني العراقي
Iraqi National Congress

Baghdad
15 April, 2004

John Brummet
Assistant Director
International Affairs and Trade
US General Accounting Office
Washington, DC 20548

Dear Mr. Brummet:

We wish to express our appreciation to the General Accounting Office for this study of issues concerning the funding of the Iraqi National Congress Support Foundation (INCSF) by the Department of State (DOS).

We wish to clarify several points raised in the report regarding issues of financial management, negotiations with DOS and the funding of Liberty TV.

Financial Management.

We note at the outset that the GAO report highlights the fact that allegations of fraud circulated by officials within the DOS against the INCSF have been shown to be untrue.

It is important to note that within three months INCSF had complied with all of the requirements set out by the DOS Grants Officer in regard to the initial Office of the Inspector General (OIG) audit in mid-2001. As reflected in the subsequent OIG audit in 2002, INCSF continued to improve its financial management to meet the stringent and myriad requirements for receiving federal funds. All the findings under the first audit were resolved and closed **except where DOS action was required.** Of special importance were the cash management procedures for the ICP, which INCSF designed and implemented in the fall of 2001 following the release of the first audit. DOS had still not responded to the INCSF's request for approval of these procedures at the time of the second audit several months later. The OIG reviewed the cash management procedures and found them acceptable but could not close the finding due to the lack of action on the part of the DOS. The DOS Near East Affairs Bureau's lack of attention to such a critical area as cash management appears to contradict their stated concerns regarding INCSF's financial management.

Negotiations with DOS.

This report shows a clear pattern of late, erratic and at times insufficient funding of INCSF by DOS. It is difficult to convey the negative impact of these funding deficiencies on the INCSF's ability to carry out its programs, on the safety of field



المؤتمر الوطني العراقي
Iraqi National Congress

operatives, and on the overall credibility of US policy towards the democratic Iraqi opposition.

For example, stipends to Iraqi trainees at US military facilities were often late, in some cases by several months, causing undue hardship for the trainees and their families and a consequent decline in morale. INCSF suspended its training program under the Iraq Liberation Act because many of the courses lasted longer than the terms of the grants offered by DOS. After receiving verbal and written guarantees from the DOS Deputy Director for Northern Gulf Affairs that trainees would continue to be supported for the duration of their courses, INCSF restarted the training program only to find trainees again stranded without any means of support. Trainees who were scheduled to begin their coursework in July 2002 either had to pull out of the class at the last minute or provide their own funds.

Liberty TV

With regard to TV Liberty, the INCSF fully concurs with the report's finding that important opportunities to broadcast to the Iraqi people were lost in the pre- and post-war periods.

Despite the chaotic conditions in the immediate post-war period, by early May 2003, 30 days after arriving in Baghdad, the INCSF had finalized plans to re-start television broadcasting inside Iraq. The INCSF had received earlier written and verbal assurances of support for television broadcasting through December 31, 2003 and submitted a budget and proposal in May. As of mid-June 2003, there had been no response from the DOS and hence the INCSF put its plans to restart the TV on hold. It simply did not make sense to broadcast for a short time period.

The INCSF expresses sincere gratitude to the men and women of the United States armed forces, to the US Congress, and to the American people for the liberation of Iraq from Saddam Hussein's tyranny and the bright future you have opened up for millions of Iraqis. INCSF remains a steadfast partner of the United States in our mutual goals of establishing a free and democratic Iraq at peace with its neighbors and its people.

Sincerely,

Ahmad Chalabi

Ahmad Chalabi
On behalf of the Iraqi National Congress Support Foundation

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May 25, 2004
Iraq's Transitional Law

GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

May 25, 2004

The Honorable Richard G. Lugar
Chairman
The Honorable Joseph R. Biden, Jr.
Ranking Member
Committee on Foreign Relations
United States Senate

The Honorable Henry J. Hyde
Chairman
The Honorable Tom Lantos
Ranking Member
Committee on International Relations
House of Representatives

Subject: *Iraq's Transitional Law*

On June 30, 2004, the Coalition Provisional Authority (CPA) intends to transfer power in Iraq to a fully sovereign Iraqi interim government.[1] CPA and the Iraq Governing Council took a fundamental step toward this goal in March 2004, when they signed the *Law of Administration for the State of Iraq for the Transitional Period* (hereafter referred to as the transitional law). The transitional law is intended to govern the affairs of Iraq until Iraqis approve a permanent constitution and a permanent Iraqi government takes office.[2]

GAO has ongoing and completed work reviewing various aspects of the U.S. effort to reconstruct Iraq. Our ongoing work includes reviewing the costs associated with reconstruction; the process used to award reconstruction contracts; efforts to develop Iraq's security forces; the rebuilding of Iraq's oil, electricity, and water infrastructure; and programs to help Iraq develop a unified, democratic government. For this report, we describe the following information as it exists at this time: (1) the time frames and Iraqi governmental structures established by the transitional law; (2) arrangements in the law for the U.S.-led multinational force, Iraqi security forces, and militias; and (3) mechanisms in the law for resolving disputes over property and territories within Iraq. In each of these areas, we also explain the transitional law's

[1]The Coalition Provisional Authority (CPA) is the U.N.-recognized coalition authority, led by the United States and the United Kingdom, responsible for the temporary governance of Iraq.

[2]The transitional law states that on June 30 a "fully sovereign Iraqi Interim Government" will take power. However, the law does not further elaborate the structure or authority of the interim government.

references to other Iraqi laws and legal provisions that help implement the transitional law. Where legal provisions to address these issues have not been completed, we describe the progress toward their completion or other actions to address the issues. We recognize that the situation is fluid and that there are ongoing efforts to address unresolved issues.

To address these objectives, we examined the transitional law and related CPA regulations, orders, and memoranda, as well as assessments of Iraqi institutions prepared by the Department of Justice and nongovernmental organizations. We met with officials from the Departments of State (State), Defense (DOD), and Justice, and CPA to clarify provisions of the transitional law. We also discussed with these officials progress toward completing provisions referred to in the transitional law, such as the annex and electoral laws. We conducted our review from March to May 2004 in accordance with generally accepted government auditing standards.

Overview

Iraq's transitional law divides the transitional period into two phases[3]—the interim government phase, which begins June 30, 2004, and the transitional government phase, which begins after elections for a National Assembly are held and the transitional government is formed. The law does not specify how the interim government is to be formed or structured, but provides that the interim government will govern in accordance with an annex to be developed. Since April 2004, the United Nations has been playing a key role in helping form and structure the interim government. Elections for the National Assembly are to be held no later than January 31, 2005, under an election law that, according to CPA officials, they aim to complete before the transfer of power. For the transitional government phase, the transitional law details the government's structure and responsibilities, including procedures for developing a permanent constitution and the federal structure. The National Assembly will draft a permanent constitution for the Iraqi people's approval in a general referendum. However, if a majority of Iraqi voters or if two-thirds of the voters in 3 of Iraq's 18 governorates reject the constitution, elections for a new National Assembly will be held and the process of drafting a permanent constitution begins again. To prevent the concentration of power in the federal government, the transitional law encourages local authority during the transitional period. The transitional law recognizes the Kurdistan Regional Government and specifies that it controls the police forces and internal security in the Kurdistan region.

The transitional law includes some provisions under which Iraqi security forces and the multinational force will provide security in Iraq after the transfer of power. Officials from DOD and State are examining what additional provisions, if any, may be necessary to further define the role of the multinational force after June 30, including a new U.N. Security Council resolution or revisions to existing CPA orders. The transitional law also outlines elements of the command and control structure for

[3]Under the transitional law, the transitional period covers the interim government phase and the transitional government period. The interim government phase begins June 30, 2004, and the transitional government phase ends with the formation of an elected Iraqi government under a permanent constitution.

some Iraqi security forces and outlaws all militias not under the command structure of the transitional government, except where provided by federal law. According to State and DOD officials, CPA is currently considering how it could further elaborate on provisions for both of these areas.

The transitional law includes provisions for the transitional government to implement that are related to resolving disputes over property rights and territory. These disputes resulted from the previous regime's practices in altering the demographic character and boundaries of certain regions and territories, including Kirkuk. One provision calls for compensating residents who were deported, expelled, or who emigrated, by restoring their homes and property to them, or, where this is infeasible, providing just compensation within a reasonable time. Another provision establishes a process Iraqis will use to resolve the status of disputed territories. If Iraqis cannot resolve the status of disputed territories through the prescribed processes, they would request assistance from the United Nations.

The transitional law provides a road map for establishing a permanent, unified, and democratic government in Iraq. Nonetheless, some issues related to the transfer of power remain unresolved. For example, the transitional law does not specify how the interim government is to be structured, nor does it fully clarify the authority of a multinational force in Iraq after the transition of power. U.S. officials and others are working to resolve these and other issues before June 30, to ensure that the transfer of authority can proceed as planned. These issues are discussed in our summary.

The Departments of State and Justice declined to provide comments on a draft of this correspondence. The Department of Defense and the Coalition Provisional Authority did not provide official comments, but sent us technical comments, which we incorporated as appropriate.

Background

On November 15, 2003, the Iraq Governing Council and CPA signed an agreement on the steps needed to transfer power to an Iraqi transitional administration. The Iraq Governing Council completed a key step in this process by drafting the transitional law in consultation with CPA and signing it on March 8, 2004. The transitional law states that it is the supreme law of the land and that it is binding in all parts of Iraq during the transitional period. It contains 62 articles that (1) protect or guarantee fundamental rights for all Iraqis, including the right of free expression, peaceable assembly, religion, and a fair and public hearing by an impartial tribunal and (2) outline the structure and authority of Iraq's transitional government, including its federal structure and legislative, executive, and judicial branches.

The transitional law also states that it cannot be amended except by the approval of Iraq's transitional presidency council and a three-fourths majority of the National Assembly. Similarly, all laws in place in Iraq before June 30, 2004, will remain in force until amended or rescinded by the transitional government. Similarly, CPA laws, regulations, orders, and directives shall remain in force until amended or rescinded by duly enacted legislation. The law also makes Islam the official religion of Iraq and states that Islam is a source of legislation. The law clarifies this by stating that no law that contradicts the universally agreed tenets of Islam, the principles of

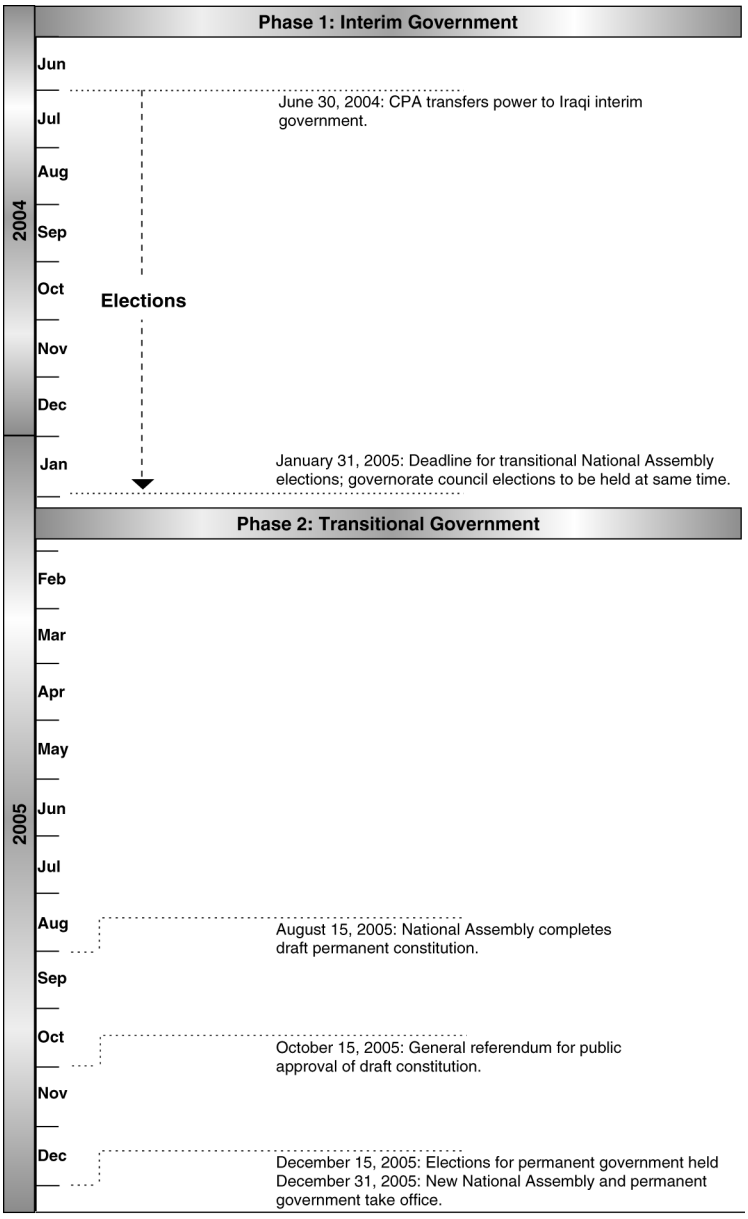
democracy, or other rights may be enacted. Moreover, it guarantees to all individuals full freedom of religious belief and practice.

To support governance and security issues related to implementing the transitional law, the United States had obligated about $1.7 billion as of April 2004. This includes $244 million for the Iraqi police and security forces; $378 million for rule of law and democracy building, including the interim and transitional governments; and $1.08 billion for CPA and U.S. agencies' operating expenses in Iraq.

Time Frames and Establishment of an Iraqi Government during the Transitional Period

The transitional law divides the transitional period into two phases. The first phase begins June 30, 2004, when a fully sovereign interim government assumes power. The transitional law does not detail how the interim government is to be formed or how it will be structured, but refers to an annex to be developed before June 30, 2004. As of May 2004, the United Nations was playing a key role in helping form this interim government. During the interim government phase, elections for a National Assembly are to be held no later than January 31, 2005. The second phase begins after the Iraqi people elect the National Assembly and the transitional government is formed. The transitional government will then draft a permanent constitution for the Iraqi people's consideration. The second phase will end once the Iraqi people approve a permanent constitution and elect a permanent government. Figure 1 shows the key dates for the two phases.

Figure 1: Time Line of Major Events for Interim and Transitional Governments



Source: GAO analysis of the Law of Administration of Iraq for the Transitional Period, March 8, 2004.

Interim Government during First Phase

The transitional law states that a fully sovereign interim government will assume power in Iraq on June 30, 2004, and that the interim government will be formed through consultations with Iraqis and possibly in consultation with the United Nations. The transitional law does not specify the exact process for forming the interim government, nor does it define its structure or authority. It provides that the interim government will govern Iraq in accordance with the transitional law and the forthcoming annex to the transitional law to be issued before June 30. Since April 2004, the United Nations has also been playing a key role in helping form the interim government. The U.N. Special Adviser on Iraq proposed that the interim government be a caretaker with the sole purpose of tending to the day-to-day administration of

the country.[4] The special adviser further proposed that a prime minister lead the interim government and that a president serve as head of state, with two vice presidents. He stated that, by the end of May 2004, it would be possible to identify leaders respected by and acceptable to Iraqis across the country to form this government.

One key function of the interim government is to prepare Iraq for conducting elections for a National Assembly that will then form a transitional government. The transitional law provides that the National Assembly elections will be held in accordance with an electoral law and a political parties law. These laws do not currently exist and CPA officials are drafting CPA orders to address these issues, according to U.S. officials. According to the transitional law, two goals of the electoral law are to have women constitute one-fourth of the members of the National Assembly and to achieve fair representation for all communities in Iraq. The transitional law does not specify any other provisions to be included in the electoral or political parties laws. The U.N. Special Adviser recommended that the leaders of a caretaker government should not be candidates for the National Assembly.

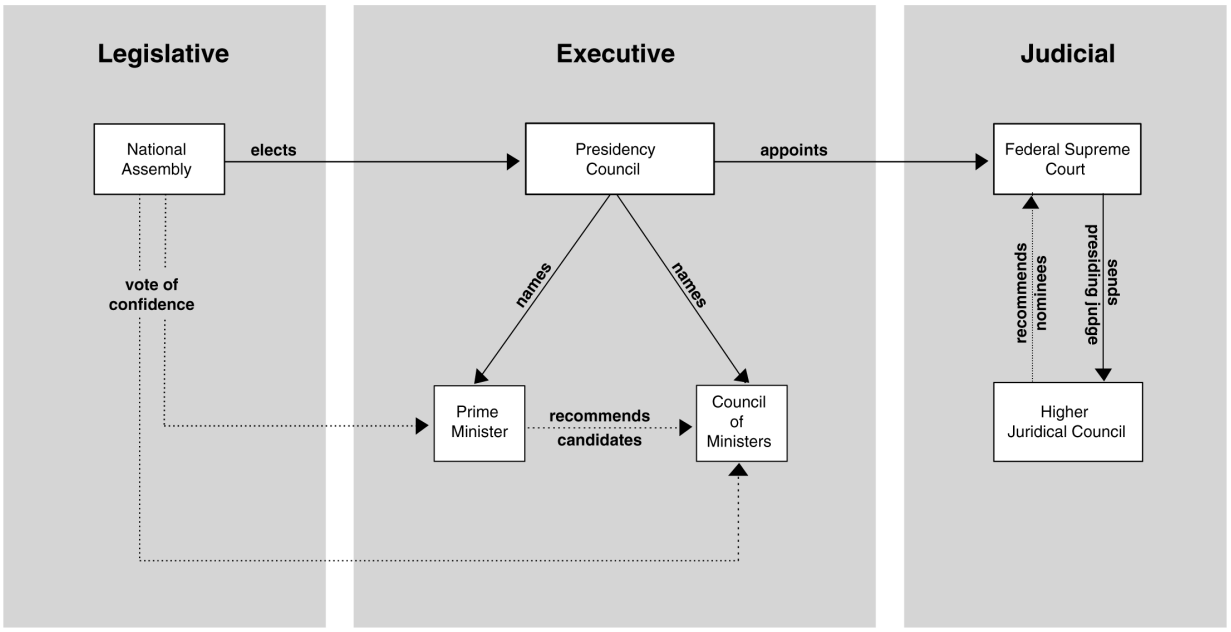
The U.N. Special Adviser also proposed that during the interim government phase, a national conference be held of at least 1,000 Iraqis representing all political parties, tribal leaders, universities, women's groups, religious leaders, and others. The national conference would contribute ideas on how to address the security situation, elections, and aspects of the transitional law. According to the U.N. Special Adviser, a consultative council of the national conference would be available to advise the government on such issues.

Transitional Government during Second Phase

The second phase will begin after elections for a National Assembly are held and the transitional government is in place. Elections are to be held no later than January 31, 2005. The transitional government will consist of separate and independent legislative, executive, and judicial authorities (see fig. 2). According to the transitional law, once elected and assembled, the National Assembly will elect the Presidency Council, which will then name a prime minister. The prime minister will recommend candidates for the Council of Ministers, which the Presidency Council will name. Both the prime minister and Council of Ministers will be subject to a vote of confidence by the National Assembly. The Presidency Council will also appoint judges to the Federal Supreme Court from candidates that the Higher Juridical Council nominates.

[4]In testimony before the House Armed Services Committee on April 21, 2004, and before the Senate Foreign Relations Committee on April 22, 2004, Under Secretary Marc Grossman of the Department of State noted that one of the Administration's criteria for the interim government is that it not have a law-making body.

Figure 2: Formation of the Iraqi Transitional Government



Source: GAO analysis of the Law of Administration of Iraq for the Transitional Period, March 8, 2004.

The National Assembly will perform legislative and oversight functions. Composed of 275 members, it will develop its own internal procedures and sit in public sessions. It will examine bills proposed by the Council of Ministers, propose its own bills, ratify international treaties, and exercise oversight over the work of the executive authority.

A key function of the National Assembly is to write a draft permanent constitution by August 15, 2005.[5] The Iraqi people will then vote to approve the constitution in a general referendum to be held by October 15, 2005. If the permanent constitution is approved in the referendum, elections for a permanent government would take place no later than December 15, 2005, and the permanent government would take office no later than December 31, 2005. However, if a majority of Iraqi voters do not approve the draft constitution or if two-thirds of the voters in three or more governorates reject it, then the National Assembly will be dissolved. Elections for a new National Assembly would take place by December 15, 2005. The new government would continue to operate under the transitional law and be responsible for writing another draft permanent constitution.

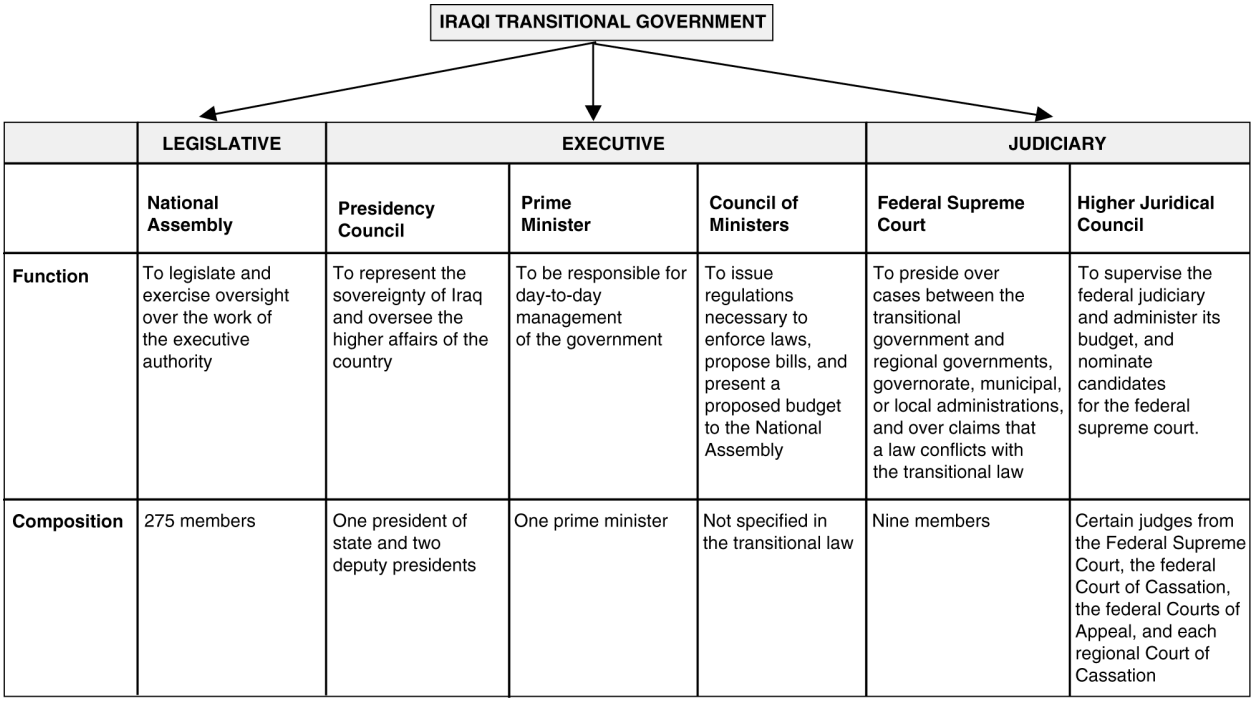
The executive authority of the transitional government will consist of the Presidency Council, prime minister, and Council of Ministers. The Presidency Council will consist of a president and two deputies. All decisions made by the Presidency Council must be unanimous. The Presidency Council may veto any legislation passed by the National Assembly, but the National Assembly may override a veto with a two-thirds majority vote. The prime minister will be responsible for the day-to-

[5]If the National Assembly cannot meet this deadline, the President of the National Assembly may certify the need for additional time to write a draft constitution to the Presidency Council, but must do so no later than Aug. 1, 2005. The Presidency Council may extend the deadline by 6 months but may not extend the deadline again.

day management of the government. The Council of Ministers will draw up rules of procedure for its work and issue regulations necessary to enforce the laws. It will also have the exclusive right to propose a national budget to the National Assembly.

The transitional law modifies the existing judiciary by establishing a Higher Juridical Council and Federal Supreme Court. The Higher Juridical Council will supervise the federal judiciary and administer its budget, nominate judges for the Federal Supreme Court, and appoint judges to the federal courts. The Higher Juridical Council will be composed of judges from the Federal Supreme Court, the federal Court of Cassation, the federal Court of Appeal, and each regional Court of Cassation.[6] The nine-member Federal Supreme Court will have jurisdiction over legal matters between the transitional government and the regional governments, governorate and municipal administrations, and local administrations. It will also have jurisdiction over complaints that a law is inconsistent with the transitional law.[7] Figure 3 illustrates the legislative, executive, and judicial structure laid out in the transitional law.

Figure 3: Function and Composition of the Iraqi Transitional Government



Source: GAO analysis of the Law of Administration of Iraq for the Transitional Period, March 8, 2004.

Provisions for Regions and Governorates

According to the transitional law, the Iraq government will be a federal system designed to prevent concentration of power in the federal government and to encourage the exercise of local authority and participation in government affairs.

[6]According to the transitional law, the court of cassation is the court of last resort in Iraq except where the Federal Supreme Court has jurisdiction.

[7]The Federal Supreme Court's ordinary appellate jurisdiction will be defined under federal law.

The transitional law recognizes the Kurdistan Regional Government as the official government of the territories that were administered by that government on March 19, 2003. The Kurdistan Regional Government will continue to perform its current functions throughout the transitional period, except with regard to issues that the transitional law exclusively reserves for the federal government. Specifically, it retains control over the police forces and internal security and has the right to impose taxes and fees within the Kurdistan region.

The transitional law allows for the formation of other regions within Iraq. Except for Baghdad and Kirkuk, groups of two or three governorates can form regions. The law does not specify how these regions could be formed but allows the interim government to propose mechanisms for their formation. The National Assembly would consider the proposal for enactment into law. Before a region can be formed, the people of the relevant governorates must approve the proposal in a referendum.

Each of Iraq's 18 governorates has the power to name a governor and form municipal and local councils. Elections for governorate councils will take place at the same time as elections for the National Assembly (no later than January 31, 2005). Governorate councils will have the authority to impose taxes and fees, organize administration of the governorate, implement projects at the provincial level independently or with other organizations, and conduct other activities consistent with applicable laws. In addition, governorate councils will assist the federal government in coordinating federal ministry operations within their governorates, including reviewing annual ministry plans and budgets as they relate to activities in the governorate. The transitional law also encourages the federal government to devolve other functions to lower levels of government where appropriate.

Arrangements for the Multinational Force, Iraqi Security Forces, and Militias

The transitional law includes some provisions for the framework under which Iraqi security forces and the multinational force will provide security in Iraq after the transfer of power on June 30, 2004. Officials from DOD, State, and CPA are examining what authorities in addition to the current U.N. Security Council resolution and CPA order may be necessary. The transitional law also outlines elements of the command and control structure for some Iraqi security forces and outlaws all militias except where provided by federal law. According to State and DOD officials, CPA is currently addressing issues related to these areas.

Mandate and Legal Status of the Multinational Force

According to Article 59 of the transitional law, the multinational force will continue operating in Iraq pursuant to the provisions of U.N. Security Council Resolution 1511 and any subsequent resolutions. In this resolution, the U.N. Security Council determined that the provision of security and stability is essential to the completion of Iraq's political transition process. Toward that end, the resolution authorized a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq, including ensuring necessary conditions for implementing the political transition's timetable and

program. It also authorized the multinational force to provide security for the U.N. Assistance Mission for Iraq, the Governing Council for Iraq, other institutions of the Iraqi interim administration, and key humanitarian and economic infrastructure. In the resolution, the U.N. Security Council called for this mandate to expire upon the establishment of an internationally recognized, representative government of Iraq and the completion of the political process in Security Council Resolution 1511.[8] However, the Security Council expressed readiness to consider any need to continue the multinational force, taking into account the views of this new Iraqi government.

The transitional law does not specifically deal with legal immunities for the force during the transitional period. However, the transitional law states that CPA orders remain in force until rescinded or amended by legislation. According to CPA Order 17, the multinational force is subject to the exclusive jurisdiction of their parent states and are immune from Iraqi legal jurisdiction.[9] This immunity remains in effect for their acts or omissions that occur during the period of authority of CPA, which is due to expire on June 30, 2004.

Senior officials from DOD and State have stated that the transitional law, U.N. Security Council Resolution 1511 and any subsequent resolution, and CPA Order 17 will sufficiently address the legal status of the multinational force after the transfer of power on June 30, 2004. According to a senior State official, the United States is currently working on a new Security Council resolution on Iraq to support the June 30 transition. According to this official, this resolution, among other things, would address the continuing need for security to complete the political process and would further define the role of the multinational force after June 30. In addition, a DOD official told us that CPA Order 17 is being revised and may provide more detail on the status of the multinational force than the current version.[10] While CPA Order 17, the transitional law, and U.N. Security Council Resolution 1511 cover many important elements of the legal status of the multinational force, they do not explicitly address other key issues, such as the authority of the force to move its personnel, equipment, and supplies into and throughout the country after the transfer of power. Nonetheless, subsequent U.N. resolutions or other agreements could address these issues.

For the transitional government phase, Article 59 of the transitional law authorizes the government to conclude binding international agreements regarding the activities

[8]Security Council Resolution 1511 lays out a political process that includes the internationally recognized Iraqi government assuming the CPA's responsibilities, providing a timetable and program for drafting a new constitution and holding elections, and convening a constitutional conference.

[9]According to this order, in cases where coalition personnel commit an act in Iraq for which the parent state has no criminal sanctions, CPA may request that the parent state waive jurisdiction to try such acts under Iraqi law. In these cases, no legal process could begin without the written permission of the CPA Administrator.

[10]According to the Department of Defense's Joint Publication 1-02, a status of forces agreement defines the legal position of a visiting military force deployed in the territory of a friendly state. Such an agreement's provisions describe (1) how the authorities of a visiting force may control that force's members, and (2) the amenability of the force or its members to the local law or to the authority of local officials. Provisions pertaining to the status of visiting forces may be in a separate agreement or they may form a part of a more comprehensive agreement.

of the multinational force operating in Iraq. The transitional law further states that nothing in the law will affect the rights and obligation under these bilateral agreements, or U.N. Security Council Resolution 1511 and any subsequent U.N. resolution, which will govern the activities of the multinational force pending the entry into force of these agreements.

Control and Command of Iraqi Security Institutions

The transitional law and related CPA orders discuss the relationship between some of the Iraqi security forces and the multinational force after the transfer of power, as shown in the following table.

Table 1: Control of Iraqi Security Forces after June 30, 2004

Ministry	Security Force	Mission	Force Level		Controlling Authority after June 30, 2004
			As of 5/05/04[a]	Requirement	
Ministry of Defense	**Iraqi Armed Forces** **Regular army and other services**[b]	Security forces that will be responsible for the defense of Iraqi territory when fully operational.	4,100	35,000	The Ministry of Defense shall exercise administrative control. Coalition Forces will have operational control.[c]
	Iraqi Civil Defense Corps	Security and emergency service agency that directly supports coalition operations to provide security and stability. Complements the police force, but designed to perform operations that exceed the capacity of the police.	29,100	41,500	The Ministry of Defense shall exercise administrative control. Coalition Forces will have operational control.
Ministry of the Interior	**Iraqi Police Service**	Primary law enforcement agency responsible for public safety, security, and order.	87,300	89,400	Not yet determined.
	Department of Border Enforcement	Monitors and controls the movement of persons and goods to, from, and across the borders of Iraq. Includes Iraqi Border Police charged with border and customs enforcement, as well as immigration duties.	15,900[d]	20,400	Not yet determined.
	Facilities Protection Service	Guards who secure individual ministry and municipal facilities against vandalism and theft.	74,100	75,000	Not yet determined.

Sources: DOD, CPA.

[a]GAO has not performed data reliability testing on these figures.

[b]According to a CPA official, these forces include units of the Iraqi Army, Iraqi Naval Infantry (less than a battalion), Iraqi Army Aviation (a few helicopters and small transport planes), Iraqi Coastal Defense Force (about a half-dozen patrol boats), an Iraqi counterterrorism force, and associated headquarters.

[c]According to DOD's Joint Publication 1-02, "DOD Dictionary of Military and Associated Terms," administrative control is the direction or exercise of authority over subordinate organizations in respect to administration and support, including control of

resources and equipment, personnel management, unit logistics, individual and unit training, readiness, mobilization, and discipline. Operational control is the authority to perform those functions of command over subordinate forces involving organizing and employing commands and forces, assigning tasks, designating objectives, and giving authoritative direction necessary to accomplish the mission.

[d]Figure includes Border Police and Department of Border Enforcement staff.

As shown in the above table, the Ministry of Defense and the multinational force will both exercise some element of control over the Iraqi Armed Forces, which now includes the Iraqi Civil Defense Corps. According to Article 59 of the transitional law, the Iraqi Armed Forces will be a principal partner in the multinational force pursuant to the provisions of U.N. Security Council Resolution 1511 and any subsequent resolutions during the transitional period. Issued on March 21, 2004, CPA Order 67 provides more detail on this relationship. The order established the Ministry of Defense, placed the Iraqi Armed Forces under the administrative control of the Ministry of Defense, and stated that the Iraqi Civil Defense Corps will be transferred to the Iraqi Armed Forces by June 1, 2004. The order stated, that pursuant to the provisions of U.N. Security Council Resolution 1511, all trained elements of the Iraqi Armed Forces will at all times be under the operational control of the Commander of the multinational force for the purpose of conducting combined operations and providing other support in accordance with CPA orders. CPA Order 73 formally transferred the Iraqi Civil Defense Corps to the Ministry of Defense as a component of the Iraqi Armed Forces on April 22, 2004.

According to Article 39 of the transitional law, national command authority on military matters during the transitional government phase is to flow from the prime minister to the minister of Defense to the military chain of command of the Iraqi Armed Forces. The law does not define national command authority during the interim government phase, which begins on June 30, 2004. According to CPA Order 67, the Ministry of Defense will operate under the authority, direction, and control of the CPA Administrator until the transfer of full governance authority to the Iraqi interim government.

As of May 5, 2004, the CPA Administrator exercised control over the Iraqi Police, Border Police, and Facilities Protection Service through the Ministry of the Interior. The Facilities Protection Service differs somewhat from the other forces in that its personnel are regulated by the Ministry of the Interior, but are paid and operate under the immediate command of the individual Ministry employing them. DOD officials have told us that all of the Ministry of Interior forces listed in the above table will be under the control of the multinational force after June 30; however, this arrangement has not been explicitly stated in any legal documents published by DOD or CPA.

Future of Iraqi Militias

Article 27 of the transitional law specifies that armed forces and militias not under the command structure of the Iraqi transitional government are prohibited, except as provided by federal law. The transitional law does not address the status of militias under the interim government or establish mechanisms to disband or integrate militias into Iraq's security forces. However, according to CPA officials, they are working with political and militia leaders to encourage members of the militias to play a role in security by enlisting in the Iraqi Armed Forces and Iraqi Civil Defense Corps. For example, CPA is negotiating with Kurdish leaders on the transition of

members of the Pesh Merga into national security structures, job placement, or retirement. State Department officials said that it would take time to address the transition of militias. Presently, four major militias and numerous smaller militias are operating in Iraq. Table 2 provides information about some of these militias.

Table 2: Some Militias Present in Iraq

Militia	Political Affiliation	Location in Iraq	Number
KDP Pesh Merga	Militia of the Kurdistan Democratic Party	Northern portion	31,000 active
PUK Pesh Merga	Militia of the Patriotic Union of Kurdistan	Northern portion	13,000 active
Badr Brigades	Militia of Supreme Council for Islamic Revolution in Iraq, a Shiite Islamic Fundamentalist group that has ties with Iran	Southern portion	8,000 active
Mahdi's Army	Followers of Muqtada al-Sadr, the radical Shiite leader	Central and southern portions	2,000-5,000 active

Source: CPA and Congressional Research Service Reports on Iraq.[11]

Mechanisms for Resolving Disputes Over Property Rights and Territory during the Transitional Government Phase

The transitional law includes three provisions for the transitional government to implement related to resolving disputes over property rights and territory. These disputes resulted from the previous regime's practices in altering the demographic character and boundaries of certain regions and territories, including Kirkuk.[12] Article 58(A) outlines mechanisms for resolving disputes over property rights; Articles 58(B) and (C) discuss the possible mechanisms and timing for determining the status of disputed territories.

Article 58(A) of the transitional law calls for the Iraqi transitional government, particularly the Iraq Property Claims Commission[13] and other relevant bodies, to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions by expelling or relocating people. For residents who were deported, expelled, or who emigrated, such measures include restoring to them their homes and property, or, where this is

[11]*Iraq: U.S. Regime Change Efforts and Post-War Governance*, August 29, 2003; *Iraq: U.S. Regime Change Efforts and Post-Saddam Governance*, February 23, 2004, Congressional Research Service.

[12]According to the 2003 State Department Human Rights report, the previous regime had systematically forced the removal of ethnic minorities under its admitted policy of "Arabizing" arable land. Specifically, the regime "Arabized" certain Kurdish areas, such as the urban centers of Kirkuk and Mosul, through the forced movement of local residents from their homes and villages and their replacement by Arabs from outside the area. Moreover, non-Arab citizens—people with Kurdish, Turkmen, Chaldean, or Assyrian identity—were forced to either change their ethnicity on their identity documents and adopt Arabic names or be expelled to the Kurd-controlled northern provinces.

[13]CPA Regulation 8 delegated authority to the Iraq Governing Council to establish the Iraq Property Claims Commission for the purpose of collecting and resolving real property claims. The Iraq Property Claims Commission statute, effective January 15, 2004, establishes the Commission and outlines its structure, procedures, and general principals.

infeasible, providing just compensation within a reasonable time, in accordance with the Iraq Property Claims Commission statute and other laws. For those people who had been newly introduced to specific regions and territories, the transitional government will ensure such individuals may be resettled, compensated, or possibly receive new land near their residence in the governorate from which they came, in accordance with the Iraq Property Claims Commission statute. The provision also states that the transitional government will permit affected persons the right to determine their own national identity and ethnic affiliation free from coercion and duress.

Two other provisions, Articles 58(B) and (C), discuss the possible mechanism and timing for determining the status of disputed territories whose administrative boundaries the previous regime had altered for political ends. Article 58(B) establishes a process Iraqis will use to resolve these disputes before requesting assistance from the United Nations. The article calls for the Presidency Council of the Iraqi transitional government to recommend remedies to the National Assembly to rectify such situations in the permanent constitution. If the Council cannot unanimously agree on a set of recommendations, it will appoint a neutral arbitrator to examine the issue and make recommendations. If the council cannot agree unanimously on an arbitrator it will request the U.N. Secretary General to appoint a distinguished international person to be the arbitrator. Article 58(C) states that the permanent resolution of disputed territories, including Kirkuk, will be deferred until after these measures are completed, a fair and transparent census has been conducted, and the permanent constitution has been ratified. The provision also states that the permanent resolution will take into account the will of the people of those territories.

Summary

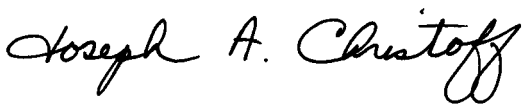
The transitional law provides a road map for establishing a permanent, unified, and democratic government in Iraq. Nonetheless, some issues related to the transfer of power remain unresolved. For example, the transitional law does not specify how the interim government is to be formed or structured, but states that the interim government will govern in accordance with an annex to be developed. Since April 2004, the United Nations has been playing a key role in helping to structure the interim government. However, to date, the interim government's specific authorities and responsibilities remain undefined. In addition, the electoral law for the National Assembly is to be completed before June 30, 2004, according to U.S. officials. Without an electoral law, the National Assembly cannot be formed. Finally, according to State Department and DOD officials, the transitional law and U.N. Security Council Resolution 1511 authorize the multinational force to operate in Iraq after June 30, and a new resolution may further define its role. However, the Secretary of State said in mid-May that if the Iraqi interim government asked the multinational force to leave, the force would leave. He did not expect this to happen. Although there are many difficult issues to be resolved, U.S. government and Iraq Governing Council officials, along with the United Nations, have only until June 30 to complete the work needed to ensure a smooth transition.

The transitional law contains some provisions addressing two of the key challenges facing the interim and transitional governments—maintaining a unified Iraq and

ensuring its security—but many issues remain open. The law recognizes the Kurdistan Regional Government and gives it control of territories in six governorates that it controlled before the war in Iraq. Since two-thirds of the voters in any three governorates can reject any draft constitution, Kurdistan or any three governorates could have significant influence on Iraq's political unity. The transitional law also recognizes the need to structure Iraq security forces as the country strives to form a unified permanent government, but does not fully detail how this will occur. For example, coalition and Iraqi officials are still working out the command and control structure of Iraqi security forces under the Ministry of the Interior. In addition, the transitional law does not establish mechanisms to disband or integrate militias into Iraq's security forces. If not resolved before June 30, the issue will be left to Iraq's interim or transitional government to address.

- - - - -

We are sending copies of this letter to interested congressional committees. The letter is also available on GAO's home page at http://www.gao.gov. If you or your staff have questions, please contact me at (202) 512-8979 or christoffj@gao.gov. Key contributors to this report included Tetsuo Miyabara, Judith McCloskey, Valérie Nowak, Mary Moutsos, Lynn Cothern, Robert Ball, Julie Chao, David Hancock, and Stephanie Robinson.



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(320263)

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June 2004

AFGHANISTAN RECONSTRUCTION: Deteriorating Security and Limited Resources Have Impeded Progress; Improvements in U.S. Strategy Needed

United States General Accounting Office

GAO

Report to Congressional Committees

June 2004

AFGHANISTAN RECONSTRUCTION

Deteriorating Security and Limited Resources Have Impeded Progress; Improvements in U.S. Strategy Needed



GAO-04-403

June 2004

AFGHANISTAN RECONSTRUCTION

Deteriorating Security and Limited Resources Have Impeded Progress; Improvements in U.S. Strategy Needed

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-04-403, a report to the Senate Committee on Foreign Relations and the House Committee on International Relations

Why GAO Did This Study

In October 2001, in response to the Taliban regime's protection of al Qaeda terrorists who attacked the United States, coalition forces forcibly removed the regime from Afghanistan. In December 2002, Congress passed the Afghanistan Freedom Support Act authorizing assistance funds to help Afghanistan rebuild a stable, democratic society. The act directed GAO to monitor the implementation of U.S. humanitarian and development assistance. This report analyzes, for fiscal years 2002-2003, (1) U.S. obligations and expenditures in Afghanistan, (2) results of assistance projects, (3) the assistance coordination mechanisms and strategy, and (4) major obstacles that affected the achievement of U.S. goals.

What GAO Recommends

To improve oversight, GAO recommends that USAID revise its strategy to delineate goals, resource levels, and a schedule of program evaluations. GAO also recommends that State produce an annual consolidated budget report and semiannual reports on obligations and expenditures. In its comments, USAID committed to preparing a more detailed strategy. State commented that it considers its financial reporting sufficient. We continue to believe improvements are needed.

www.gao.gov/cgi-bin/getrpt?GAO-04-403.

To view the full product, including the scope and methodology, click on the link above. For more information, contact David Gootnick at (202) 512-3149, or GootnickD@gao.gov.

What GAO Found

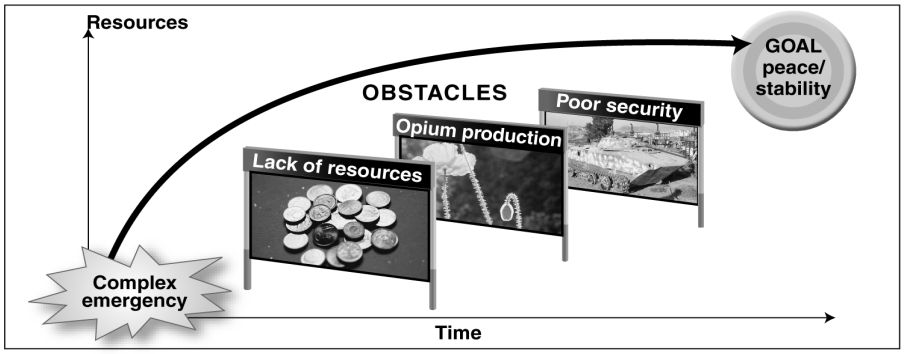
Of the $900 million that the U.S. government spent on nonsecurity-related assistance in Afghanistan in fiscal years 2002-2003, over 75 percent supported humanitarian efforts, including emergency food and shelter, and over 20 percent supported longer-term reconstruction. USAID, the Department of State, and the Department of Defense spent $508 million, $254 million, and $64 million, respectively, for humanitarian, quick-impact, and some longer-term projects. U.S. funding represented about 38 percent of the $3.7 billion the international community disbursed over the 2-year period.

U.S. humanitarian and short-term assistance benefited Afghanistan, but longer-term reconstruction efforts achieved limited results by the end of fiscal year 2003 due to late funding. By providing food and shelter to returning refugees and other vulnerable populations, early U.S. assistance helped avert a humanitarian crisis. USAID's and Defense's quick-impact projects also helped rebuild small-scale infrastructure such as schools and bridges. USAID initiated several longer-term reconstruction activities, such as repairing the Kabul–Kandahar road and starting a democracy program. However, because of delays in funding most major assistance contracts were not signed until summer 2003, limiting the results in fiscal years 2002-2003.

U.S. coordination mechanisms for Afghanistan assistance were generally effective, but international assistance was not well coordinated in fiscal years 2002-2003. In addition, the United States lacked a complete and integrated assistance strategy, which hampered the U.S. government's ability to focus available resources and hold itself accountable for measurable results. Further, U.S. officials responsible for coordinating efforts lacked complete financial data, which hindered their ability to oversee the assistance.

In fiscal years 2002-2003, Afghanistan confronted many obstacles that other postconflict nations have faced, such as multiple competing parties. In addition, security deteriorated and opium production increased, thereby jeopardizing U.S. reconstruction efforts. Lack of staff, poor working conditions, and delayed reconstruction funding further impeded U.S. efforts. (See fig. 1.) In September 2003, to expedite progress, the U.S. government announced the "Accelerating Success" initiative, providing $1.76 billion for reconstruction in 2004.

Obstacles to U.S. Reconstruction Efforts in Afghanistan, Fiscal Years 2002-2003



Sources: Conceptual drawing from GAO analysis; photos left to right: PhotoDisc, Nova Development, GAO.

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Abbreviations

HHS	Health and Human Services
IOM	International Organization for Migration
OFDA	Office of Foreign Disaster Assistance
OTI	Office of Transition Initiatives
PRT	Provincial Reconstruction Team
RAMP	Rebuilding Agricultural Markets Program
REACH	Rural Expansion of Afghanistan's Community-Based Health Care
REFS	Rehabilitation of Economic Facilities and Services Program
U.N.	United Nations
UNDP	United Nations Development Program
USAID	United States Agency for International Development
WFP	U.N. World Food Program

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June 2, 2004

The Honorable Richard G. Lugar
Chairman
The Honorable Joseph R. Biden
Ranking Minority Member
Committee on Foreign Relations
United States Senate

The Honorable Henry J. Hyde
Chairman
The Honorable Tom Lantos
Ranking Minority Member
Committee on International Relations
House of Representatives

Twenty-three years of war and destructive domestic policies and more than 5 years of drought destroyed Afghanistan's government, judicial, economic, and social institutions and its transportation, health, sanitation, and other infrastructure. In October 2001, responding to its protection of al Qaeda terrorists who had attacked the United States, Coalition forces forcibly removed the Taliban regime. With the passage of the Afghanistan Freedom Support Act in December 2002, Congress authorized the use of federal funds for the delivery of humanitarian, development, and security assistance to Afghanistan.[1] The act articulates U.S. policy goals in Afghanistan that include the creation of a stable Afghan society that is not a threat to itself or others and is not a base for terrorism.

[1]Title I of P.L. 107-327 pertains to humanitarian and development assistance; Title II, to security assistance; and Title III, to miscellaneous provisions. As mandated by the act, this report focuses on Title I–related assistance. For the purposes of this report, humanitarian assistance refers to the provision of emergency assistance that meets people's needs for adequate water, sanitation, nutrition, food, shelter, and health care. Quick impact projects refer to short-term assistance that helps transition Afghanistan from the humanitarian to development assistance—longer-term reconstruction projects.

Section 106 of the act directs the U.S. General Accounting Office (GAO) to monitor U.S. humanitarian and reconstruction assistance to Afghanistan. To meet this requirement and provide Congress with a comprehensive accounting of U.S. humanitarian and reconstruction assistance to Afghanistan for the fiscal year 2002-2003 period, we (1) analyzed U.S. obligations and expenditures; (2) identified the results of assistance projects through September 30, 2003; (3) evaluated U.S. and international assistance coordination mechanisms and the U.S. assistance strategy; and (4) examined the major obstacles that affected the achievement of U.S. policy goals and the reconstruction effort.[2]

To address these issues, we collected and analyzed information from the U.S. Departments of Agriculture, Defense, Health and Human Services, Justice, State, and Treasury; the U.S. Agency for International Development (USAID); the United Nations (U.N.); the Afghan government; and nongovernmental organizations and private contractors responsible for implementing U.S. government–funded projects. This effort included analyzing data on obligations and expenditures by U.S. government agencies that provided assistance to Afghanistan in fiscal years 2002 and 2003. We conducted reliability checks on the financial data provided by U.S. agencies and, based on these checks, concluded that the data are sufficiently reliable for the purposes used. Because the U.S. assistance is provided as part of a larger international effort, we included information on the contributions provided by international donors. Finally, we traveled to Afghanistan in October 2003 to examine U.S. assistance-related operations in country. While in Afghanistan, we spoke with officials from U.S., U.N., and nongovernmental organizations; private contractors; and the Afghan government. However, the number and location of project sites we visited in Afghanistan was limited because of Department of State security restrictions. We conducted our review from August 2003 through April 2004 in accordance with generally accepted government auditing standards. (For further details of our scope and methodology, see app. I.)

Results in Brief

In fiscal years 2002–2003, the U.S. obligated $1.4 billion and spent $900 million, or more than half its obligations for nonsecurity-related assistance to Afghanistan. Of the $900 million that the U.S. government spent, over 75

[2]The U.S. fiscal year covers the 12-month period October 1 through September 30. In this report, "international community" is defined as the collective grouping of bilateral, multilateral, and international assistance agencies and nongovernmental organizations.

percent supported short-term, humanitarian assistance, including emergency food and shelter, and over 20 percent supported longer-term reconstruction needs. USAID, the largest provider of nonsecurity-related assistance, spent about $508 million on both humanitarian and reconstruction projects. During the same period, the Department of State spent $254 million, mainly on refugee and humanitarian assistance, and the Department of Defense spent $64 million on food assistance and quick-impact projects. Most of the funding by USAID and Defense supported local projects in 31 of Afghanistan's 32 provinces, particularly in 4 of the most heavily populated. Overall, U.S. funding represented about 38 percent of the $3.7 billion disbursed by the international community for nonsecurity-related assistance to Afghanistan in fiscal years 2002–2003.

U.S. humanitarian and small-scale, quick-impact projects benefited Afghanistan in fiscal years 2002–2003, but longer-term reconstruction efforts had achieved limited results by the end of fiscal year 2003 due to delayed funding. USAID and the Departments of Agriculture and State provided humanitarian assistance, including emergency food, health care, sanitation, and shelter, which helped avert a famine and reintegrate returning refugees. In addition, to assist Afghanistan in its transition from humanitarian relief to reconstruction of its infrastructure and civil society, USAID and Defense implemented small-scale, quick-impact projects such as renovating or rebuilding schools, clinics, bridges, and irrigation canals. Further, under USAID's leadership, a number of longer-term reconstruction activities in a number of sectors achieved limited results. However, notable accomplishments include building a road from Kabul to Kandahar, establishing a democracy and governance program, and helping farmers reestablish farm production.

Although the U.S. government established coordination mechanisms for its assistance efforts in Afghanistan in fiscal years 2002-2003, it lacked a complete operational strategy; in addition, coordination of international assistance was weak. A number of mechanisms to coordinate U.S. assistance were established and, in general, U.S. officials believed that U.S. assistance was well coordinated. The United States did not have a comprehensive strategy to direct its assistance efforts until June 2003. In addition, USAID's operational strategy did not clearly articulate measurable goals or other details. U.S. officials responsible for coordinating assistance efforts also lacked financial data necessary for program oversight and coordination. Without a comprehensive strategy or adequate financial data, the ability of the U.S. government to ensure progress toward development goals and make informed resource

allocation decisions was impaired. Further, international assistance was not well coordinated in 2002, and efforts by the Afghan government to improve coordination in 2003 had not succeeded.

In fiscal years 2002–2003, the postconflict environment in Afghanistan threatened progress toward U.S. policy goals, and poor security, increasing opium cultivation, and inadequate resources impeded U.S. reconstruction efforts. Afghanistan faces many of the same obstacles that other nations have faced after civil conflict, such as multiple competing parties. Throughout fiscal years 2002–2003, terrorists attacked U.S., international, and Afghan government targets, and criminal activity by warlords and clashes between rival factions increased the overall climate of insecurity. In addition, record levels of opium production and associated revenues threatened Afghanistan's stability by funding the activities of terrorists and warlords. Further, small staff size, inadequate working conditions, and the timing of funding for reconstruction impeded U.S. efforts. To increase funding and expedite progress, in September 2003, the U.S. government announced an initiative called "Accelerating Success" that would provide an additional $1.76 billion for reconstruction projects in Afghanistan in fiscal year 2004.

We are recommending that USAID revise its operational strategy for its assistance program in Afghanistan. The revised strategy should delineate measurable goals, specific time frames, resource levels, external factors that could significantly affect the achievement of goals, and a schedule for program evaluations that assess progress against the strategy's goals. To improve management and oversight of U.S. assistance to Afghanistan, we are also recommending that the Department of State produce an annual consolidated budget for all U.S. assistance to Afghanistan and report to Congress semiannually on obligations and expenditures for the assistance provided.

We provided a draft of this report to the Departments of State and Defense and to USAID. State and USAID commented that they concurred with much of the information presented on the situation in Afghanistan for the period covered by our review. They also provided additional information on more recent activities taken and progress made. USAID and the Department of Defense also provided technical comments, which we incorporated where appropriate.

In response to our recommendation that USAID revise its operational strategy for Afghanistan to include details such as measurable goals,

timeframes, and required resources, USAID said that its less comprehensive "interim" strategy was appropriate given the situation in Afghanistan during the early phases of the ongoing efforts. Nonetheless, USAID said that it was committed to developing a standard strategic plan for Afghanistan during 2004, which is consistent with our recommendation. The Department of State disagreed with our finding that the United States lacks a complete and integrated assistance strategy, citing its December 15, 2003, report to Congress "Fiscal Year 2004 Strategic and Financial Plan for Reconstruction and Related Activities in Afghanistan" as meeting this need. We found that most of the strategies that were published during fiscal years 2002-2003 lacked details on funding and other resources, measurable goals, timeframes, as well as a means to measure progress. However, in the report, we cite the State Department's June 2003 Mission Performance Plan as meeting many of the requirements for a government-wide operational strategy. While the fiscal year 2004 plan cited by the State Department in its comments includes more details on the U.S. assistance budget for Afghanistan, it lacks operational details including time frames, measurable goals, and a means to measure progress towards those goals.

In response to our recommendation that State produce an annual consolidated budget for all U.S. assistance to Afghanistan and report to Congress semiannually on obligations and expenditures, State emphasized that policy makers are provided with information on U.S. obligations weekly and that there is close interagency collaboration on all funding issues. We disagree. As we reported, complete and readily accessible obligation and expenditure data was not available and consequently, it is difficult to determine the extent to which U.S. assistance dollars are being used to achieve measurable results on the ground in Afghanistan. Specifically, we found that (1) governmentwide expenditure data on U.S. assistance to Afghanistan is not collected, (2) obligation data are collected on an ad hoc basis, and (3) the Coordinator's office experienced difficulty in consistently collecting complete and accurate obligation data from U.S. government agencies. Regular reporting of both obligations and expenditures for U.S. assistance to Afghanistan would provide the State Coordinator and Congress a more complete picture of what funds have been spent on the ground on visible projects.

Background

Afghanistan is a mountainous, arid, land-locked country with limited natural resources, bordered by Pakistan to the east and south; Tajikistan, Turkmenistan, Uzbekistan, and China to the north; and Iran to the west (see fig. 1). At 647,500 square kilometers, Afghanistan is slightly smaller

than the state of Texas; its population, estimated at 27.8 million, is ethnically diverse, largely rural, and mostly uneducated. The country is divided into 32 provinces, over 300 districts, and approximately 30,000 villages.

Figure 1: Map of Afghanistan, Including Provinces and Major Roads



Source: GAO.

Afghanistan is an extremely poor country. As shown in table 1, development indicators published by the World Bank and the U.N. rank Afghanistan at the bottom of virtually every category, including malnutrition; infant, child, and maternal mortality; life expectancy; and literacy.

Table 1: Development Indicators for Afghanistan versus the Average for Low-Income Countries and the United States

Indicator	Afghanistan[a]	Average, low-income country[b]	United States
Infant mortality	165 per 1000 live births	80 per 1000 live births	7 per 1000 live births
Under 5 mortality	257 per 1000 live births	121 per 1000 live births	8 per 1000 live births
Maternal mortality	1600 per 100,000 live births	671 per 100,000 live births	17 per 100,000 live births
Life expectancy	43 males/44 females	58 males/60 females	75 males/81 females
Percentage of children under 12 months immunized against diphtheria and measles	45 %	60 %	93 %
Percentage of population undernourished	70 %	25 %	N/A
Percentage of rural population with access to improved water source	11 %	69 %	100 %
Percentage of rural population with access to improved proper sanitation	8 %	31 %	100 %
Literacy—age 15 and over	51 % males/ 21 % females	72 % males/ 53 % females	97 % males/ 97 % females

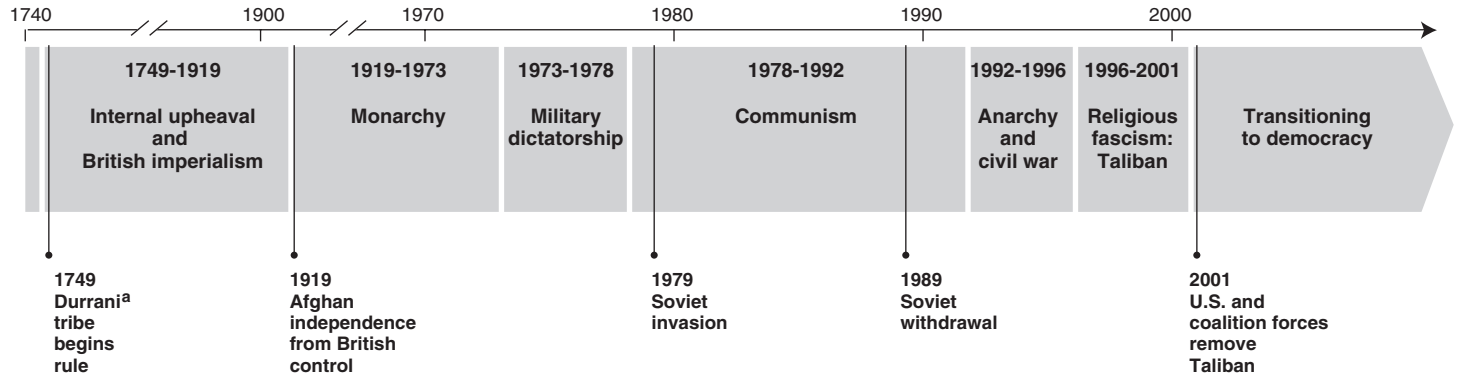
Sources: The World Bank and U.N.

[a]Data as of most recent year available.

[b]Low-income countries are defined as countries with an annual per capita gross national income of less than $735. (Afghanistan's 2002 per capita gross national income was $250).

Over the last 2 decades, political conflicts ravaged Afghanistan. The country was subject to ethnic rivalry led by provincial warlords, communist invasion, and fundamental Islamic control, all of which limited development (see fig. 2). Factional control of the country following the withdrawal of Soviet troops in 1989, coupled with the population's fatigue of fighting, allowed a fundamental Islamic group, the Taliban, to seize control of the country. Although the Taliban regime provided some political stability during the late 1990s, its destructive policies, highlighted in its repressive treatment of women, and its continuing war with the opposition Northern Alliance further impeded international aid and development.

Figure 2: Political History of Afghanistan, 1749–2004



Source: GAO.

[a]The Durrani tribe ruled over most of what is present-day Afghanistan—despite domestic turmoil and foreign encroachment—from 1749 through 1978.

In December 2001, less than 2 months after U.S. and coalition forces forcibly removed the Taliban regime, an international summit in Bonn, Germany, established a framework for a new Afghan government,[3] which focused on an ambitious 30-month timeline for writing a new constitution by the end of October 2003 and holding democratic elections by June 2004.[4] The framework, known as the Bonn Agreement, was endorsed by the U.N. Security Council on December 6, 2001, through UN Resolution 1383. (See app. II for additional information on the Bonn Agreement.)

In December 2002, the United States passed the Afghanistan Freedom Support Act of 2002 and increased its assistance to Afghanistan. (See app. III for details on the types and purposes of the assistance authorized by the act.) The goal of the U.S. government in Afghanistan is to firmly establish a democratic nation inhospitable to international terrorism, drug trafficking and cultivation; at peace with its neighbors; and able to provide its own internal and external security. U.S. efforts in support of this goal are intended to help create national security institutions, provide humanitarian and reconstruction assistance, and reinforce the primacy of the central

[3]This report refers to the Afghan Interim Authority and the Transitional Islamic State of Afghanistan as the government of Afghanistan.

[4]President Karzai announced in March 2004 that the elections would be postponed until September 2004.

government over Afghanistan's provinces. Title I, Section 104(a) of the act states that in general, the President is strongly urged to designate, within the Department of State, a coordinator who shall among other things be responsible for

- designing an overall strategy to advance U.S. interests in Afghanistan;
- ensuring program and policy coordination among U.S. agencies carrying out the policies set forth in this title;
- pursuing Afghanistan assistance coordination with other countries and international organizations; and
- ensuring proper management, implementation, and oversight by agencies responsible for Afghan assistance programs.

USAID[5] provides U.S. assistance to underdeveloped countries through U.N. agencies, nongovernmental organizations, and private contractors. The main organizational units responsible for managing USAID's reconstruction programs and operations in Afghanistan in fiscal years 2002–2003 were the agency's mission in Kabul, Afghanistan; the Bureau for Asia and the Near East; and the Bureau for Democracy, Conflict, and Humanitarian Assistance through the Office of U.S. Foreign Disaster Assistance, Office of Food for Peace, Office of Transition Initiatives (OTI), and Office for Democracy and Governance.[6] Other U.S. government agencies provided additional assistance, including the Department of Defense through its provincial reconstruction teams (PRT) located at sites throughout Afghanistan. In fiscal years 2002–2003, the PRTs ranged in size from 50 to 100 civilian and military personnel, including civil affairs units, force protection soldiers, and representatives of the Departments of Agriculture and State and USAID. The teams are intended to deliver assistance that

[5]USAID is the principal U.S. agency that provides foreign assistance to countries recovering from disaster, escaping poverty, and engaging in democratic reforms.

[6]The Bureau for Asia and the Near East is one of four USAID geographic bureaus that are responsible for activities in the countries within the geographic region. The USAID mission in Kabul, Afghanistan, falls under the jurisdiction of the bureau. The Bureau for Democracy, Conflict, and Humanitarian Assistance's mission is to save lives, alleviate suffering, support democracy, and promote opportunities for people adversely affected by poverty, conflict, natural disasters, and a breakdown of good governance. OTI provides short-term assistance to pre- and posttransition countries experiencing significant political change or facing critical threats to stability and democratic reform.

advances military goals and provide security in an effort to increase the reach of the Afghan central government in the provinces and allow assistance agencies to implement projects. By late 2003, Defense established PRTs in Bamian, Kunduz, Gardez, and Mazar-I-Sharif.

U.S. Funding Focused on Humanitarian Aid, Represented Sizable Portion of International Assistance

In fiscal years 2002–2003, the United States spent the majority of its nonsecurity-related funding to Afghanistan on humanitarian and quick-impact projects, and it contributed approximately one-third of the international funding disbursed in Afghanistan.[7] Of the 10 U.S. agencies providing assistance to Afghanistan, USAID provided the largest amount, for both humanitarian and reconstruction assistance, and the Department of State provided the second largest amount, primarily for humanitarian assistance. USAID and the Department of Defense obligated[8] a total of $283 million for nationwide programs and $564 million for localized program assistance in 31 provinces. The United States accounted for 38 percent of the $3.7 billion in nonsecurity-related international funding disbursed in Afghanistan in fiscal years 2002–2003.[9]

U.S. Assistance Focused on Humanitarian and Quick-Impact Projects

The U.S. government obligated $1.4 billion for assistance to Afghanistan in fiscal years 2002–2003, including $782 million for humanitarian and quick-impact projects and $647 million for strategic, longer-term reconstruction projects. U.S. agencies spent[10] $900 million, of which $686 million, or over 75 percent, was spent on humanitarian and quick-impact projects and about $214 million, or over 20 percent, was spent on longer-term reconstruction needs. (See fig. 3.)

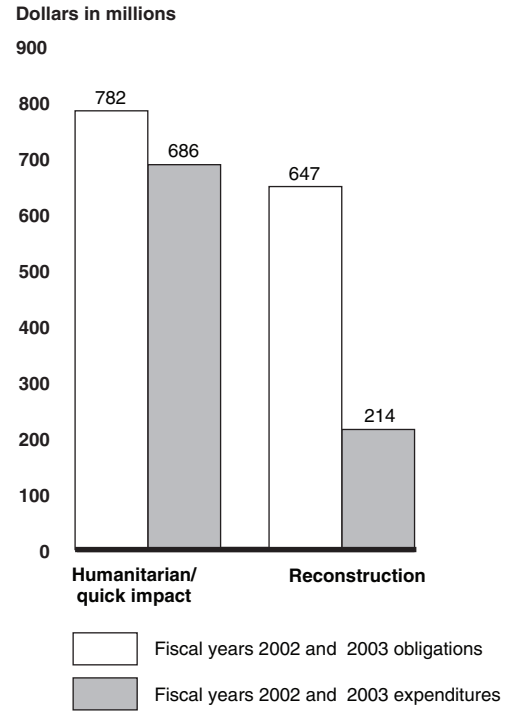
[7]See appendix IV for a list of the agencies and their assistance funding.

[8]For the purposes of this report, obligations are defined as amounts of orders placed, contracts awarded, services received, and similar transactions during a given period that will require payments during the same or a future period.

[9]According to State officials,the Department of State does not track international obligations and expenditures and defines disbursements as monies that have moved beyond pledges. In this report, we consider an international disbursement as including both obligations and expenditures. See appendix V for detailed information on international pledges and disbursements.

[10]For the purposes of this report, expenditures are defined as the issuance of checks, disbursement of cash, or electronic transfer of funds made to liquidate a federal obligation.

Figure 3: Obligations and Expenditures, by Type, Fiscal Years 2002–2003



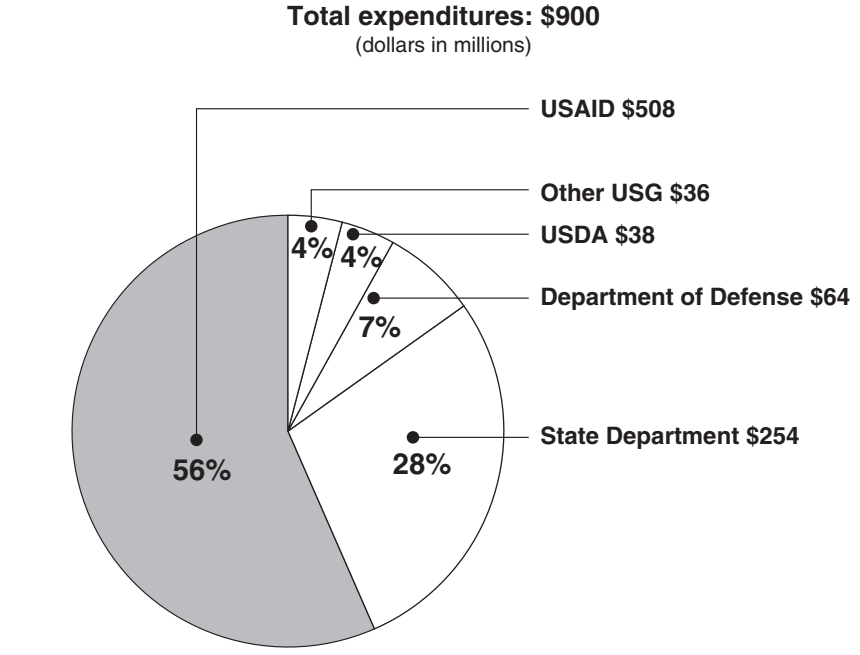
Source: GAO.

USAID and State Provided Most U.S. Assistance

Of the 10 U.S. government departments and agencies involved in assistance to Afghanistan in fiscal years 2002–2003,USAID provided the largest amount of assistance, for both humanitarian and reconstruction needs. USAID obligated $942 million, of which it spent about $508 million by September 2003. It provided both short-term assistance—emergency, humanitarian, and quick-impact projects—and longer-term reconstruction and development-oriented assistance, such as revitalizing infrastructure, improving health and education, strengthening the economy, and supporting democracy and governance. The Department of State provided the next largest amount, obligating $287 million in fiscal years 2002-2003 and spending $254 million of that amount. State's programs were targeted mainly to refugee and humanitarian assistance, including demining, and also included funding for counterdrug programs and building a police force. The Department of Defense obligated $71 million and spent $64 million, primarily for provincial-level, short-term projects implemented through its PRTs and for humanitarian daily rations that it air-dropped early

in fiscal year 2002. In addition, seven other U.S. government agencies obligated $128 million and spent $74 million for a variety of both humanitarian and reconstruction activities. (See fig. 4.)

Figure 4: Percentages of U.S. Reconstruction Assistance Expended by Agencies, Fiscal Years 2002–2003



USAID U.S. Agency for International Development
USDA U.S. Department of Agriculture
USG U.S. government

Source: GAO.

Most Funding Supported Provincial Projects

In an effort to expand the reach of the Afghan government—a major U.S. and Afghan government priority—most USAID and Defense assistance funding was spent on projects implemented at the provincial level. Specifically, USAID and Defense obligated $283 million for nationwide programs and $564 million for provincial-level assistance across 31 provinces.[11] Kabul received the most provincial-level assistance, $70.4 million for 148 projects, while Konar received the least, $121,350 for one project. Although assistance was provided in virtually all of Afghanistan's provinces,[12] five provinces received approximately half of provincial-level program assistance. Four of these provinces—Kabul, Kandahar, Balkh, and Hirat—have major population centers, and the fifth, Badakshan, is increasingly important to the opium trade. (See fig. 5.)

[11] USAID obligation data is from an agency database as of Sept. 17, 2003. The agency's database does not include the additional $150 million that were obligated in the last 13 days of fiscal year 2003. According to USAID, the share of funding per province would have remained relatively constant over the 13 days. The Department of Defense obligations are as of December 2003. Defense officials stated they could not break out the funds by fiscal year.

[12] Afghanistan has 32 provinces. Only 1 province, Nuristan, received no assistance at the provincial level, although it may have benefited from national programs.

Figure 5: USAID and Defense (PRT) Obligations and Number of Projects, by Province



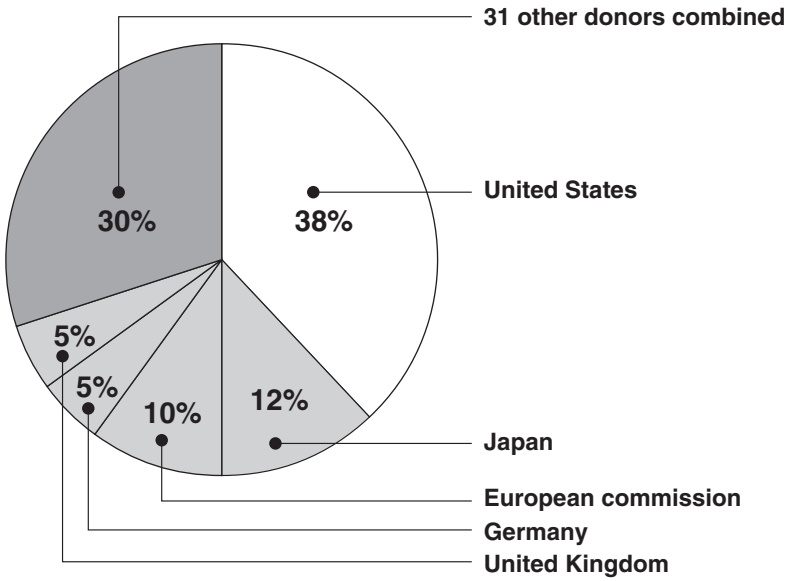
Source: GAO.

Note: The figure above does not include the Department of Defense's humanitarian food drops conducted in fiscal year 2002.

U.S. Was Largest International Donor

In fiscal years 2002–2003, international donors pledged $9.7 billion for assistance to Afghanistan. (See app. V for details.) International disbursements for the 2-year period totaled approximately $3.7 billion, of which U.S. obligations accounted for approximately 38 percent, or $1.4 billion—the largest amount donated (see fig. 6). Like U.S. funding, most international funding was directed to meet humanitarian needs rather than major reconstruction efforts. According to the Center on International Cooperation, as of May 2003, $947 million of the international disbursements had been used to begin reconstruction projects.[13]

Figure 6: U.S. Assistance as a Percentage of International Assistance



Source: GAO analysis of Department of State data.

[13]The Center on International Cooperation is a nongovernmental organization that seeks to inform public debate by examining international justice, humanitarian assistance, and postconflict peace-building.

U.S. Humanitarian Assistance Helped Avert Famine; Longer-term Reconstruction Efforts Had Limited Results

In fiscal years 2002-2003, humanitarian and quick-impact assistance benefited Afghanistan, but longer-term reconstruction efforts achieved limited results. U.S. humanitarian aid helped overcome emergency conditions and jump-start the recovery effort. In addition, quick-impact projects helped Afghanistan transition from the emergency to the reconstruction phase. However, because of delayed funding, most major contracts for reconstruction activities were not signed until summer 2003, limiting the results achieved by the end of that fiscal year.

Humanitarian Assistance Helped Vulnerable Populations and Averted Famine

In fiscal years 2002–2003, to help redress the complex humanitarian crisis in Afghanistan, the U.S. government provided emergency assistance that helped avert a famine, significantly reduce the suffering of the most vulnerable Afghans, and assist the return of refugees. USAID's Office of Food for Peace provided Afghanistan with 355,270 metric tons of wheat and other emergency food assistance (valued at $206.4 million) through P.L. 480, Title II, and the Department of Agriculture provided 79,600 metric tons of surplus wheat (valued at $38.7 million) through the 416(b) program.[14] The United States provided most of its food assistance to Afghanistan through the U.N. World Food Program (WFP),[15] as well as the U.N. Food and Agriculture Organization and nongovernmental organizations. (See fig. 7.) Over the 2-year period, the United States provided over 60 percent of all international food assistance received by Afghanistan. According to the WFP, the food assistance provided by the United States and the international community helped avert famine in Afghanistan.[16]

[14]Title II of the Agricultural Trade Development and Assistance Act of 1954 as amended (P.L. 480) authorizes USAID to donate agricultural commodities to meet international emergency relief requirements and carry out nonemergency feeding programs overseas. The U.S. Department of Agriculture provides surplus commodities to countries under section 416(b) of the Agricultural Act of 1949. U.S. contributions consist of in-kind donations of commodities such as white wheat and cash donations to cover the cost of transporting the commodities from the United States to Afghanistan.

[15]Between October and December 2001, the Department of Defense also dropped 2,489,880 humanitarian daily rations, each of which contained a complete set of meals for one day for one person, totaling approximately 2,200 calories. The Department of Defense stated the total cost of the ration effort to be $50,897,769.

[16]For additional information on U.S. food and agriculture assistance to Afghanistan in fiscal years 2002—2003, see U.S. General Accounting Office, *Foreign Assistance: Lack of Strategic Focus and Obstacles to Agricultural Recovery Threaten Afghanistan's Stability*, GAO-03-607 (Washington, D.C.: June 2003).

Figure 7: WFP Distribution of U.S.-Provided Food in Afghanistan



Source: WFP.

USAID also provided other emergency assistance in fiscal years 2002–2003. According to USAID reports, the Office of Foreign Disaster Assistance provided $137.8 million to meet the basic needs of internally displaced people and other vulnerable Afghans. The funding supported health and nutrition programs, agricultural and other income-generating rehabilitative work in rural areas, and logistics for coordinating humanitarian and food assistance countrywide. According to USAID, the office, through its cash-for-work programs, supported more than 4,000 small rehabilitation projects, including repairs to approximately 2,600 kilometers of roads, 1,500 wells and irrigation systems, and more than 100 schools and hospitals, benefiting selected communities throughout the country.

The Department of State's Bureau of Population, Refugees, and Migration provided $234 million to assist returning refugees. This assistance, disbursed primarily through the UN High Commissioner for Refugees, supported the voluntary return and reintegration of 2.2 million refugees and internally displaced people to their homes in Afghanistan. The U.S.

assistance also provided shelter; water and sanitation; primary, reproductive, maternal, and child health care; food and nutrition; primary education; mine education and awareness; and economic assistance and training to refugees and internally displaced people.

Quick-Impact Projects Transitioned U.S. Assistance from Relief to Reconstruction

USAID's OTI[17] and the Department of Defense's PRTs implemented small-scale, quick-impact projects. These projects aimed to extend the reach of the Afghan central government by providing benefits to rural communities and to facilitate the transition to longer-term reconstruction programs. Both OTI and the PRTs engaged in clinic and school reconstruction, bridge rehabilitation, irrigation construction, and other locally determined, small-scale projects.

In fiscal years 2002–2003, OTI expended $18 million for 435 projects. (On average, each project cost $42,465.) By October 2003, 66 percent of the projects had been completed. In a November 2003 assessment, OTI concluded that its efforts had increased the Afghan state's ability to function, enhanced the independent media's ability to promote public information, and facilitated infrastructure improvements in hundreds of communities. However, OTI also concluded that these gains had not yet achieved its objective of building citizen confidence in the ability of the central Afghan government. Few Afghans interviewed by OTI during the assessment were aware that the U.S. government or the Afghan central government had supported a specific project. (See fig. 8 for an example of an OTI project.)

[17]OTI works to strengthen the Afghan government's capacity to govern effectively and accountably; expand citizen and community participation in decision making; support voices of moderation and peace; and increase the availability and quality of public information.

Figure 8: Fatmasti Irrigation Canal outside Bamian, Afghanistan



Source: GAO.

Note: A USAID OTI grant of $25,139 funded the rehabilitation of the 2.5 kilometer Fatmasti irrigation canal in Bamian province. The canal irrigates 60 hectares of land and benefits 600 families (or approximately 3,600 individuals).

The Department of Defense's quick-impact projects were similar in size and scope to those implemented by USAID's OTI. In fiscal years 2002–2003, Defense granted $20 million for 451 projects in Afghanistan through its PRTs.[18] (On average, the projects cost $45,000 each.) Sixty-four percent of them were completed by December 2003. The PRTs implemented projects designed to help (1) advance U.S. military goals, (2) build goodwill among the local population, (3) increase the visibility of U.S. support, and (4) extend the reach of the Afghan central government. Although no formal evaluation of the overall PRT effort had been completed as of October 2003, officials at the Departments of State and Defense said that the activities of civil affairs teams appeared to have a positive effect on security and were a useful tool for expanding local support for both the U.S. presence and the Afghan government. However, the Agency Coordinating Body for Afghan Relief reported that as currently structured, the PRTs lack the resources or mandate to either solve the security situation in Afghanistan or significantly contribute to reconstruction.[19] (Fig. 9 shows one example of a PRT project.)

[18] In each PRT, a military civil affairs team is responsible for implementing aid projects.

[19] Policy Brief: *Provincial Reconstruction Teams and the Security Situation in Afghanistan* (Kabul: July 24, 2003.) Agency Coordinating Body for Afghan Relief is a nongovernmental organization coordinating body in Afghanistan with a membership of 68 international and Afghan nongovernmental organizations.

Figure 9: PRT-Funded Construction of Provincial-level College in Bamian Province, Afghanistan



Source: GAO.

Nascent Longer-Term Reconstruction Efforts Achieved Limited Results

USAID's longer-term reconstruction efforts in fiscal years 2002–2003 achieved limited results because of delays in funding. To help the Afghan government extend its influence throughout the country, USAID organized its longer-term assistance into six sectors: infrastructure rehabilitation, economic governance, democracy strengthening, education, health, and agriculture.[20] The agency also integrated elements to promote gender equity into each sector. Most of the contracts for longer-term reconstruction assistance in each of the six sectors were not signed until summer 2003, due to delayed funding, limiting what USAID could achieve in that fiscal year.

[20]Originally, USAID planned to conduct projects in four sectors: agriculture, education, health, and democracy. However, its priorities changed over time; the first long-term projects were implemented in the infrastructure and economic governance sectors.

The following presents U.S. efforts in each sector. The goals listed in figures 10–16 portray USAID's goals and objectives as stated in early planning and reporting documents. Since many of the projects created under the six sectors continued work begun through the quick-impact projects, USAID has not disaggregated their achievements. We include information on some quick-impact projects, as well as longer-term reconstruction projects. Also, since USAID does not track expenditures by the six sectors, we do not include information on total amounts spent by sector.

Figure 10: Infrastructure Rehabilitation

Goal:
Promote economic recovery and political stability in Afghanistan by repairing selected infrastructure
Objectives:
• Construct or rehabilitate physical infrastructure items • Build institutional capacity



Source: GAO (analysis); USAID (photo).

Infrastructure rehabilitation. By the end of fiscal 2003, USAID had built or rehabilitated several physical infrastructure projects, most notably the Kabul–Kandahar road. Many of the early physical infrastructure projects handled through the quick-impact programs used local or low-technology procedures in order to speed implementation. For example, the OTI projects applied stone, gravel, and dirt to improve transport over secondary and tertiary roads. By contrast, a contract for the longer-term Rehabilitation of Economic Facilities and Services infrastructure program (REFS), signed in September 2002, provided engineering and construction services for the production of paved roads and seismically sound buildings.

The Kabul-Kandahar road, a U.S. presidential priority, represents a significant political symbol within Afghanistan and is the main transport route for north-south trade from Central Asia to the Indian Ocean. In about 17 months, under the REFS contract, USAID contractors demined, graded, and installed the first layer[21] of pavement on a segment of highway stretching 389 kilometers (approximately the distance from Washington, D.C., to New York, N.Y.).[22] As a result, travel between the two cities was reduced from several days to about 6 hours. The road requires two more layers of asphalt and the construction of bridges and culverts; the estimated project completion date is October 2004. The prime contractor for the REFS program was also responsible for constructing schools and clinics listed as objectives under the education and health sectors. However, as of the end of fiscal 2003, although OTI and the PRTs built and rehabilitated schools and clinics, none of the more sophisticated buildings included in the infrastructure contract had been built.

In addition to the USAID infrastructure projects, State identified communications as an infrastructure element essential to meeting the long-term security needs of Afghanistan. USAID provided for voice and e-mail communication between the central government in Kabul and all 32 provinces by installing a high-frequency radio communications network. The U.S. Trade and Development Agency provided short-term advisors to create a strategic plan for telecommunications development. By October 2003, two telephone companies had established service in Afghanistan, but according to USAID and others, connectivity was still unreliable.

[21]The first phase of the Kabul-Kandahar highway was inaugurated on Dec. 16, 2003.

[22]The total length of the highway is 482 kilometers. The Japanese aid agency repaired an additional 50 kilometers leading into Kandahar. The remaining 43 kilometers had been repaired under the Taliban.

Figure 11: Economic Governance

Goal:

Improve economic management and develop institutions for economic governance

Objectives:

- Provide long-term technical support designed to promote development and implementation of major reforms
- Human capacity development and dissemination of improved economic policy and public administration practices



Source: GAO.

Economic governance. When the U.S. government began its reconstruction efforts in Afghanistan, the Ministry of Finance and the Central Bank—necessary to set fiscal policy and handle the country's reconstruction cash flow, respectively—were operating at an elementary level. USAID helped to reestablish the Ministry of Finance, create a central bank of Afghanistan and a new currency, and reform the customs process. To do this, USAID awarded a contract for its Sustainable Economic Policy and Institutional Reform Support program in November 2002. Under the program, USAID helped rehabilitate the ministry building and provided advisors to retrain the bank's staff. In addition, USAID helped the central bank establish and distribute a new national currency (the "afghani"). This involved collecting and destroying an estimated 13 trillion of the greatly devalued, previously existing afghanis and the disparate currencies printed by warlords. USAID supported the commercial bank sector by assisting in legal and regulatory reform and training financial sector officials. As a result, international commercial banks began to receive licenses in the fall of 2003. Further, USAID helped to partially rehabilitate the Kabul customs house and airport customs facilities, streamline customs processes, and establish a tax identification number system for traders. Despite these and other efforts aimed at encouraging the provinces to remit revenue to the central government, according to the UN and others, warlords continued to keep large portions in their own regions, undermining the authority of the central government.

Figure 12: Health Care

Goal:

Reduce Afghan deaths by using a community-based, low-cost, low-tech public health approach to the problems of malnutrition, acute respiratory, diarrheal and other infectious diseases

Objectives:

- Improve maternal and child health
- Educate Afghans on public health issues
- Guide public health policy
- Train lower level health care providers
- Repair or construct health facilities



Source: GAO.

Health care. In November 2002, USAID, with assistance from the UN Population Fund, Japan's aid agency, and the European Commission, completed a comprehensive assessment of health facilities, services, personnel, and supplies available throughout the country. This effort helped Afghanistan's Ministry of Health to establish a national health strategy and national health priorities. All grants for health sector activities must address the priorities established in the ministry's strategy. The study found that Afghanistan has approximately one health facility per 27,000 inhabitants. It also established that nearly 40 percent of existing basic care facilities employ no female health workers. (According to cultural norms, it is taboo for women to receive care from male health care workers.)

Other health achievements included providing grants to NGOs to operate over 160 health facilities—covering an area where 3.9 million Afghans live—constructing or rehabilitating 140 health facilities, training over 1,700 health workers, participating in the campaign to immunize 90 percent of the population against measles, and improving approximately 3,600 rural potable waterworks. To expand U.S. support for Afghanistan's health sector goals, USAID established its Rural Expansion of Afghanistan's Community-Based Health Care program through a contract signed in May 2003, as a continuation of previously begun work.

Figure 13: Education

Goal:	
Reestablish educational opportunities	
Objectives:	
• Provide educational material • Train teachers • Rebuild educational facilities	

Source: GAO.

Education. By the end of fiscal year 2003, USAID, through quick-impact projects, had repaired or constructed approximately 200 schools, provided more than 25 million textbooks, trained over 3,000 teachers, and supplemented approximately 50,000 teachers' salaries with vegetable oil. (The oil represented 26 percent of the teachers' monthly income.) To assist Afghanistan with longer-term education goals, USAID created the Afghanistan Primary Education Program through a contract signed in June 2003. Early efforts in this program included developing and beginning to disseminate an accelerated learning curriculum for girls, who were not educated under the Taliban.[23] USAID plans to train 30,000 classroom teachers between fiscal years 2003 and 2006. The prime education contractor in charge of the training referred to the educators it will train as "mentors" because they will not have the same qualifications as formally trained teachers.

[23]USAID's teacher training program has two facets: (1) a "master trainer" seminar for educators, who in turn are expected to educate other teachers in their vicinity with the new teaching methods, and (2) a distance-learning curriculum in which teacher classes are broadcast over the radio. The distance-learning radio shows began broadcasting in August 2003.

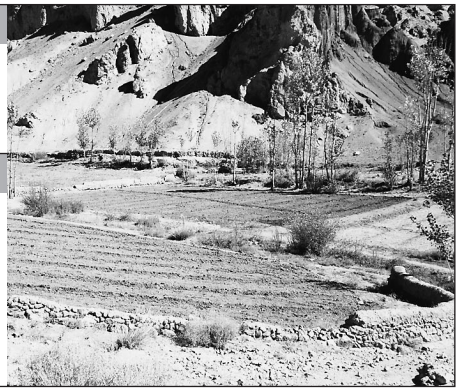
Figure 14: Agriculture

Goal:

Ensure a secure food supply, promote value-added and exportable production, and stimulate jobs in rural areas and the market towns nearby in order to reinvigorate the rural economy

Objectives:

- Create good economic policy particularly for market oriented agricultural price policy, food safety, and export promotion
- Help farmers reestablish production
- Improve water accessibility for crops
- Promote non-farm income generation
- Rehabilitate key rural infrastructure



Source: GAO.

Agriculture. Through quick-impact projects, USAID helped farmers reestablish agricultural production by distributing approximately 9,300 metric tons of seed and 12,400 metric tons of fertilizer,[24] and by rehabilitating more than 7,000 rural irrigation structures. USAID also helped improve the rural economy by repairing over 70 bridges and tunnels and more than 7,000 kilometers of secondary and tertiary roads and by employing the equivalent of 1 million Afghans for 1 month. In July 2003, the agency awarded a contract for the Rebuilding Agricultural Markets Program, aimed at increasing the food security and incomes of the rural population. However, as of October 2003, work under this contract had not yet begun.

[24]Afghanistan's Minister of Agriculture estimated that the country needed about 500,000 metric tons of fertilizer for the 2002–2003 crop year.

Figure 15: Democracy Strengthening

Goal:

Strengthen the national government and develop local capacity and an increasingly robust civil society

Objectives:

- Support the Bonn Process
- Broaden participation in the political process
- Enhance media capacity and information access
- Promote rule of law
- Rehabilitate key infrastructure



Source: GAO.

Democracy strengthening. USAID established two democracy and governance programs, one to help implement the political goals set by the Bonn Agreement and the other to bolster the civil society, media, and political parties. Through the beginning efforts of these programs, in conjunction with the quick-impact activities, the United States provided key technical assistance, civic education, and logistics support for the emergency *loya jirga* (grand council) to establish the interim government, and for the second *loya jirga* to ratify a new constitution. USAID also provided over 130 advisers to the Afghan ministries and funded approximately 880 staff positions. In addition, USAID supported the creation of radio stations and trained over 320 journalists to aid the development of a free and independent media. As of October 2003, USAID and the international community had helped the Afghan government establish judicial reform, human rights, and constitutional commissions. Further, USAID commissioned designs for a provincial courthouse and a judicial complex in Kabul. USAID's cooperative agreement with the Consortium for Elections and Political Process Strengthening, establishing the democracy strengthening program, was not signed until July 2003.[25]

[25]Italy is the lead nation for judicial sector reconstruction.

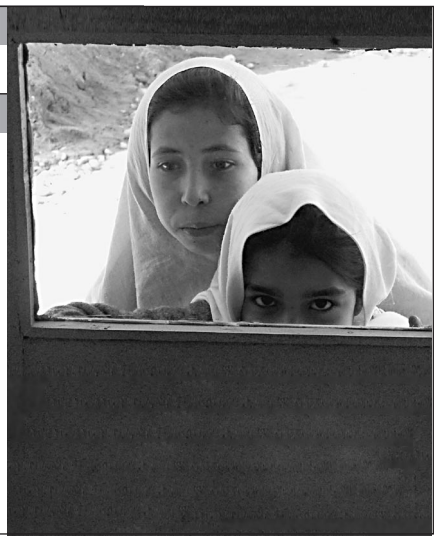
Figure 16: Gender Equity

Goal:

Integrate gender equity into all activities

Objectives:

- Ensure participation of Afghan women in USAID programs and Afghan government instututions
- Support literacy, health, economic and agricultural programs that address women and girls
- Strengthen the capacity of relevant ministries to build a national constituency of women
- Support capacity building for Afghan women's NGOs and groups
- Assist constitutional, judicial, and human rights commissions to advance the rights of women
- Work through local institutions to address gender concerns in all sectors
- Coordinate donors assisting women-related and gender programs
- Provide technical assistance on gender issues to the Consultative Group process



Source: GAO.

Gender equity. USAID did not create separate women's projects but rather included elements promoting gender equity in its programs.[26] For example, some quick-impact infrastructure projects incorporated women's labor into the construction process. In Kunduz, where USAID helped a community build a retaining wall, women participated and earned income by making wire screens to contain rocks placed in the wall by the men. In addition, USAID facilitated the involvement of women in the *loya jirgas* (women accounted for 20 percent of the delegates at the December 2003 constitutional *loya jirga*) and in the Afghan government by rehabilitating 15 day care centers in ministry buildings to encourage Afghan women to return to work. USAID also encouraged the return of girls to the classroom by creating an accelerated education program.[27] USAID also made maternal care one of its primary health goals. However, Afghan society still limits women's travel and work, which complicates attempts to educate, train, or provide medical care to them, and nearly 40 percent of existing health care

[26]The Afghanistan Freedom Support Act of 2002 authorized $15 million to be appropriated for programs to assist Afghan women and girls.

[27]Under the Taliban regime, girls were not allowed to attend school. Consequently, many girls are older than the average age for their education level. The accelerated learning program attempts to bring them up to speed and reintegrate the girls into regular classroom settings.

facilities employ no female health workers. Further, several girls' schools have been set on fire to protest educating women, and a female *loya jirga* representative's life was threatened when she expressed her negative opinion about the government's collaboration with warlords.

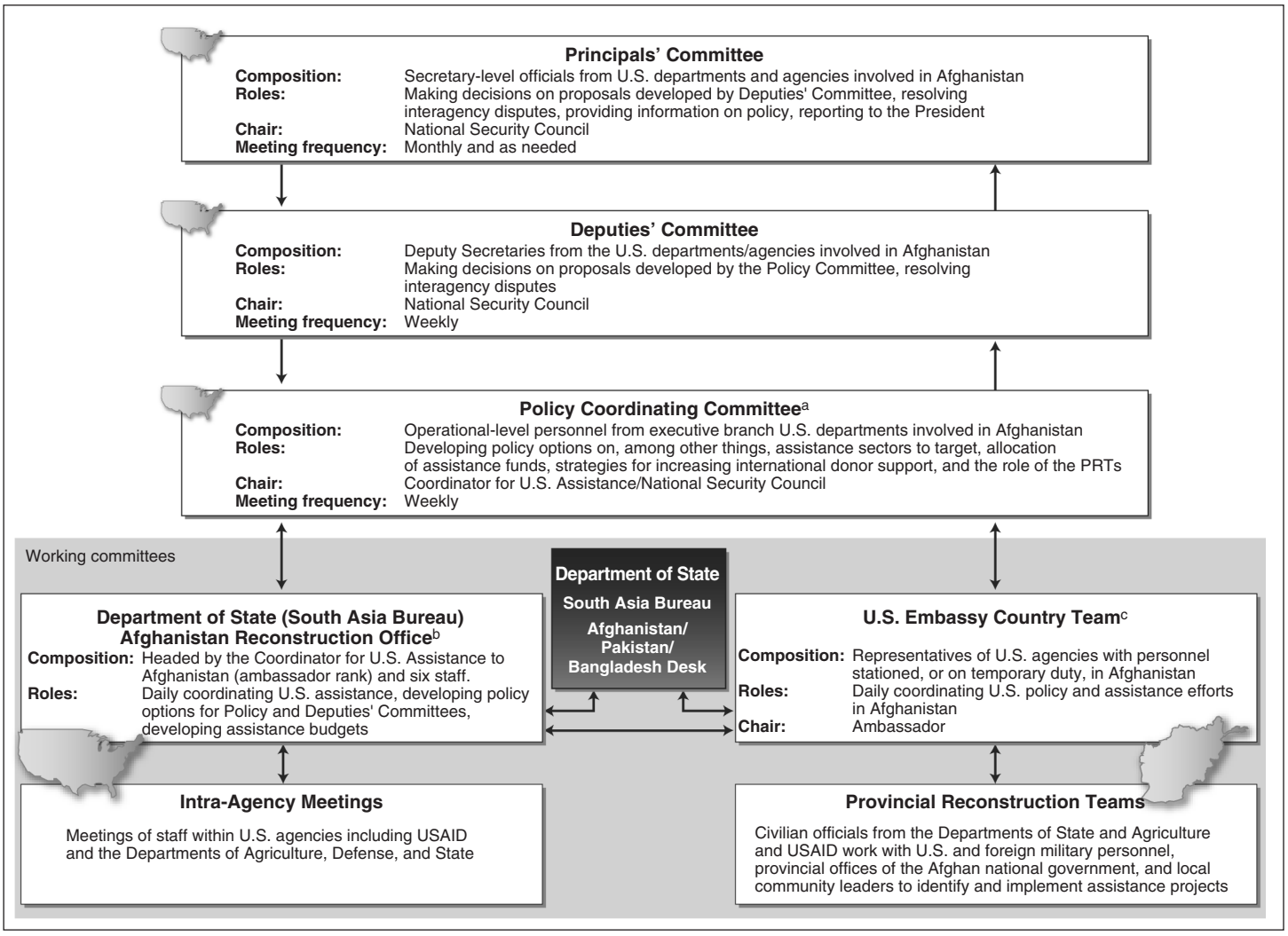
Coordination Mechanisms Established, but U.S. Strategy and Financial Data Were Incomplete; International Assistance Coordination Remained Weak

In fiscal years 2002–2003, the U.S. government established several mechanisms to coordinate its assistance effort in Afghanistan, but it lacked a comprehensive reconstruction strategy. Although U.S. agency officials characterized coordination as effective overall, some problems occurred. In addition, key operational components of the strategies intended to guide the reconstruction effort were incomplete or were not drafted until the latter half of fiscal 2003. Further, coordination officials lacked complete and accurate financial data needed for effective program management. Meanwhile, international assistance coordination was weak in 2002, with limited improvements introduced through the consultative group mechanism in 2003.

U.S. Efforts Were Coordinated, but Minor Problems Occurred

U.S. assistance to Afghanistan in fiscal years 2002–2003 was coordinated through a number of mechanisms; however, some problems occurred. U.S. efforts were coordinated in Washington through the Afghanistan Reconstruction Office, the Policy Coordinating Committee, the Deputies' Committee, and the Principals' Committee, and in Afghanistan through the U.S. Embassy country team. (See fig. 17.) According to Department of State officials, interagency coordination among the Afghanistan Reconstruction Office, agencies delivering assistance, and the embassy country team was routine and daily. In addition, these officials stated that the formal, hierarchical, interagency committee structure provided a uniform process for making policy-level decisions and keeping the President informed.

Figure 17: Major U.S. Interagency Afghan Assistance Coordination Mechanisms In Use During Fiscal Years 2002–2003



Source: GAO analysis of information provided by the Department of State (data); Nova Development (clipart).

[a]In October 2003, a national security decision directive eliminated the Policy Coordinating Committee and established the Afghanistan Interagency Operating Group in its place.

[b]In October 2003, the Afghanistan Reconstruction office became the Office for Afghanistan. The office's functions are codified in section 104 of the Afghanistan Freedom Support Act. The office subsumed the Afghanistan Desk.

[c]In October, the Afghanistan Reconstruction Group was established within the U.S. Embassy, Kabul.

U.S. officials from several agencies we spoke to stated that, overall, the U.S. government's coordination of the Afghan assistance effort in fiscal

years 2002–2003 was effective. According to officials from USAID and the Departments of Agriculture, State, and Commerce, coordination efforts were successful and the policy coordination committee succeeded in bringing all of the agencies together to discuss pertinent issues and make collective decisions. USAID's former mission director in Afghanistan emphasized that the daily meetings of the country team and other assistance sector–based teams ensured good coordination within the embassy.

Although U.S. officials stated that coordination among agencies was generally good, several cited examples of coordination problems. For example, USAID officials said that whereas USAID worked closely with Afghan government ministries on the selection and location of projects, the PRTs focused on projects chosen by local authorities. Consequently, the PRTs implemented projects that were not included in national plans developed by the central government.[28] In addition, USAID officials and Department of Health and Human Services (HHS) officials confirmed that coordination problems involving the two organizations' efforts in Afghanistan's health sector had occurred. Specifically, HHS rehabilitated the Rabia Balkhi Hospital in Kabul, rather than focus efforts on rural health clinics where the Afghan Ministry of Health and USAID had determined the need for assistance was greater. In another example, Department of State staff stated that USAID did not share information on its demining activities and that staff turnover and inconsistent operating procedures within the Department of Defense made coordinating demining efforts difficult.

Strategic Guidance Was Incomplete, Financial Data Was Lacking

The U.S. government's strategies for directing its reconstruction efforts in Afghanistan evolved during fiscal years 2002–2003, and key operational components of the strategies were incomplete or not drafted until the latter half of fiscal year 2003.[29] In addition, coordination officials lacked complete and accurate financial data needed for effective program management.

[28]In 2003, USAID and the Department of State began placing staff in PRTs in part to improve coordination and assist in project selection.

[29]In previous analyses of postconflict assistance efforts, we found that a strategy that both looks beyond a country's immediate situation and operationalizes ongoing efforts is essential for effectively implementing an assistance program. From 1994 to 2004, We have done extensive work assessing postconflict assistance. Our report, *Foreign Assistance: Observations on Postconflict Assistance in Bosnia, Kosovo, and Afghanistan*, GAO-03-980T (Washington, D.C.: July 18, 2003), summarizes the broad issues identified and contains a bibliography of selected postconflict-related reports.

Strategic Guidance Evolved Over Time

Various strategies pertaining to U.S. assistance efforts were developed during the fiscal 2002–2003 period. Several levels of strategies, from the President's office down to the USAID mission, are designed to guide U.S. assistance efforts in Afghanistan, focus resources, and hold agencies accountable for their efforts.[30] In February 2003, the President published a broad strategy for meeting the immediate and long-term security needs of Afghanistan in response to the Afghanistan Freedom Support Act requirements.[31] The President's strategy is intentionally broad and, therefore, lacks operational details, such as time frames and measurable goals. In June 2003, 18 months after the signing of the Bonn Agreement, the Department of State published its first mission performance plan to guide U.S. efforts in Afghanistan for fiscal years 2003–2006.[32] This plan is organized around five strategic goals for the reconstruction effort and one management goal pertaining to Department of State facilities in Afghanistan. The mission plan provides an estimate, by appropriation account, of the financial resources needed. Further, the plan (1) describes specific tactics and activities to be undertaken and assigns responsibility for each activity to USAID and other offices of the agencies housed within the U.S. Embassy in Afghanistan and (2) defines baseline data, performance indicators, and targets for achieving each performance goal. As the key U.S. agency for reconstruction of Afghanistan, USAID is responsible for developing a more detailed strategy and subordinate plans and programs to carry out its responsibilities.

[30]The National Security Strategy, published in September 2002, broadly presents the United States' core national security objectives and includes foreign assistance as one of a wide range of initiatives to achieve these objectives. The latest consolidated Department of State/USAID strategic plan, published in August 2003, supports the National Security Strategy, presents worldwide priorities for both organizations, and includes four broad objectives for Afghanistan. Country-specific strategies are intended to support the broader goals contained in the National Security Strategy and Department of State/USAID strategic plan.

[31]See Afghanistan Freedom Support Act, Title II, Section 206(c)(1)(A). The act also requires that the President semiannually submit to the congressional committees cited in the act a status report on the implementation of the strategy.

[32]A mission performance plan is an authoritative, integrated interagency country strategy document, prepared by the U.S. embassy country team. Despite the agriculture sector's importance to Afghanistan's recovery and one of the major sectors targeted by USAID, the performance plan completed in June 2003 does not address rehabilitation of Afghanistan's agriculture sector.

USAID Strategy Lacked Operational Details

The USAID mission in Afghanistan developed an interim strategy and action plan in August 2002. However, these documents did not clearly articulate measurable goals or provide details on time frames, resources, responsibilities, objective measures, or means to evaluate progress for each of the sectors targeted by the strategy.[33] USAID directives require that interim strategies include a description of how or when the strategy would be replaced by a standard strategic plan. The interim strategy for Afghanistan does not contain the required description. USAID's guidelines and directives state that country-level strategies and plans should address, among other things, strategic objectives, key country-level problems, programmatic approaches, baseline data and targets, performance indicators and the means to measure progress, fundamental assumptions, and resources required to implement the plan. Although USAID developed a number of measurable goals for various sectors during fiscal years 2002–2003, these goals and the resources and methods designed to achieve them were included in numerous project documents and contracts rather than stated in a comprehensive strategy as called for by USAID guidelines.

Further, according to USAID officials, although USAID Washington reviewed the strategy and action plan, the documents were not vetted through USAID's standard strategy review process; instead an abbreviated process was used to assess clarity, feasibility, compliance with agency policies, delineation of expected results, and congruency with available resources. The former mission director in Afghanistan stated that the time and resources needed to develop and approve a strategy through the normal USAID operating procedures were not available when the strategy documents were developed and that a waiver for meeting standard strategy-related requirements was granted in February 2002.[34]

[33]All of these components are required in USAID's standard strategic plans. USAID directives allow the use of interim strategic plans in countries experiencing high uncertainty because of drastic political, military, and/or economic events. According to USAID directives, a strategy should be developed prior to the implementation of assistance activities. Waivers are available for countries with special foreign policy interest, are valid for 1 year, and can be renewed annually. See USAID *Guidelines for Strategic Plans* (Washington, D.C.: February 1995); *USAID Functional Series 200–Programming Policy Automated Directives System 201–Planning* (Washington, D.C.: January 2003).

[34]Section 201.3.4.5 of the USAID Automated Directives System provides that in special foreign policy situations where activities must be initiated prior to completion and approval of a strategic plan, a temporary 1-year exemption may be issued.

In January 2003, USAID officials responsible for the agency's efforts in Afghanistan requested a second waiver and promised to draft a strategy according to USAID guidelines within 6 months of the waiver's approval. According to USAID documents, no strategy was drafted because the situation in Afghanistan was too dynamic, preventing USAID from taking a proactive approach to its efforts including the development of a strategy. A third waiver was approved in February 2004 that exempts USAID from developing the strategy until February 2005. As a result, more than 3 years will have passed between the time USAID began providing postconflict assistance to Afghanistan and the completion of a USAID assistance strategy for Afghanistan. The lack of a complete country strategy impedes USAID's ability to ensure progress toward development goals, make informed resource allocation decisions, and meet agency and congressional accountability reporting requirements on the effectiveness of agency programs.

Comprehensive Financial Data Was Not Readily Available

The coordinator for U.S. assistance to Afghanistan, as well as others responsible for the coordination of U.S. assistance, lacked complete and accurate financial data in fiscal years 2002–2003. Program managers need financial data to, among other things, monitor performance, allocate resources, and determine whether strategic goals are being met. Further, relevant information needs to be identified, collected, and distributed in a form and time frame so that duties can be performed efficiently.[35] Most of the agencies providing assistance to Afghanistan could not readily provide complete or accurate data on assistance obligations and expenditures, and some agencies were unable to disaggregate the information by fiscal year or province. Consequently, over the course of our review, we worked with the agencies to obtain reliable data. In fiscal years 2002–2003, the Coordinator's office did not require U.S. agencies to regularly report obligation and expenditure data.[36] As a result, the Coordinator for U.S. Assistance to Afghanistan lacked information that could have helped decision-makers manage the overall assistance effort, including the targeting of resources to key efforts.

[35]U.S. General Accounting Office, *GAO Internal Control: Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

[36]In December 2003, the Department of State began collecting obligation data from U.S. agencies providing assistance to Afghanistan. However, Department of State officials acknowledged that the obligation tracking efforts do not include all U.S. government agencies and are not updated on a regularly scheduled basis. In addition, the agency tracks only obligation, not expenditure, data.

International Assistance Coordination Was Weak

Despite efforts to synchronize multiple donors' efforts, coordination of international assistance was weak in 2002 and problems remained in 2003.[37] The Bonn Agreement urged donors to defer responsibility for assistance coordination to the Afghan government. According to the UN, coordination is the responsibility of the Afghan government; efforts by the aid community should reinforce national authorities; and the international community should operate, and relate to the Afghan government, in a coherent manner rather than through a series of disparate relationships.[38]

In April 2002, the Afghan government initiated efforts to exert leadership over the highly fragmented reconstruction process. To accomplish this task, the government published its National Development Framework, which provided a vision for a reconstructed Afghanistan and broadly established national goals and policy directions. In addition, the Afghan government established a government-led coordination mechanism, the implementation group, to bring coherence to the international community's independent efforts and broad political objectives. The mechanism's structure was based on the National Development Framework. Individual coordination groups, led by Afghan ministers and composed of assistance organizations, were established for each of the 12 programs in the framework.

The implementation group mechanism proved to be largely ineffective. In August 2002, officials from the Afghan government, the UN, the Department of State, and USAID, as well as a number of nongovernmental bodies, expressed concern over the lack of meaningful and effective coordination of assistance in Afghanistan. For example, the Ministers of Foreign Affairs, Rural Rehabilitation and Development, Irrigation, and Agriculture stated that the donor community's effort to coordinate with the government was poor to nonexistent. The ineffectiveness of the implementation group mechanism resulted from its inability to overcome several impediments. First, each bilateral, multilateral, and nongovernmental assistance agency had its own mandate (established by implementing legislation or charter) and sources of funding, and each donor pursued development efforts in Afghanistan independently. Second,

[37]According to the UN, assistance coordination refers to a recipient government's integration of donor assistance into national development goals and strategies.

[38]United Nations, *Immediate and Transitional Assistance Program for the Afghan People* (January 17, 2002).

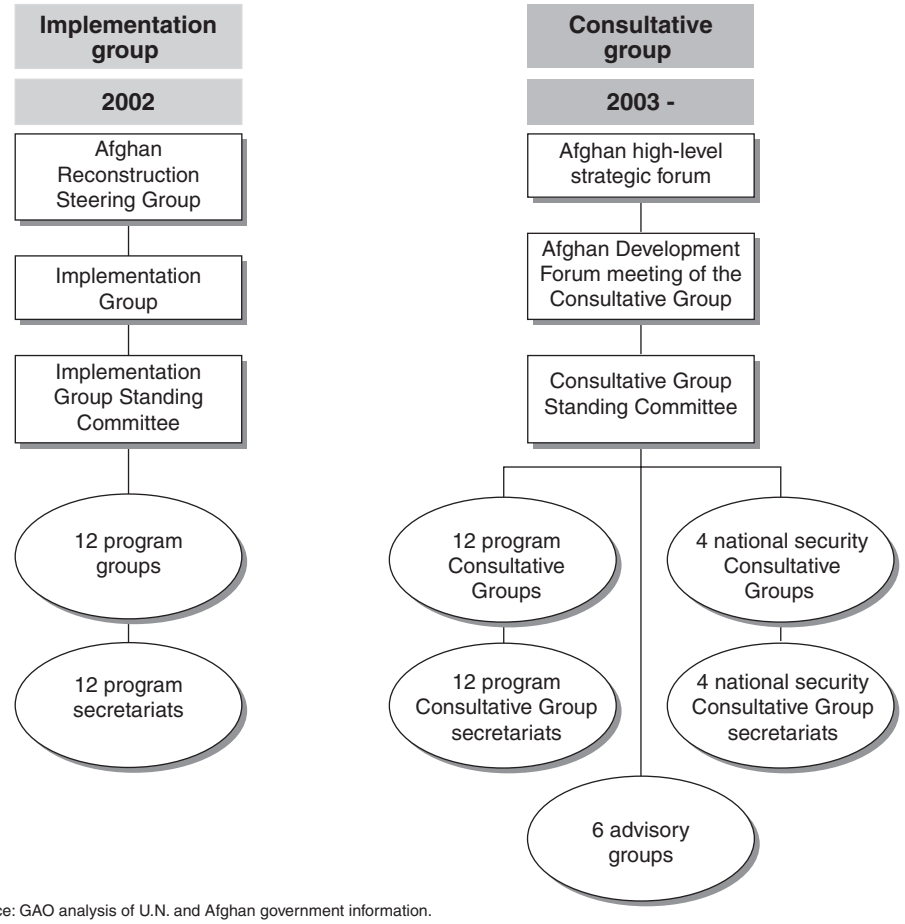
the international community asserted that the Afghan government lacked the capacity and resources to effectively assume the role of coordinator and, that these responsibilities therefore could not be delegated to the government. Third, no single entity within the international community had the authority and mandate to direct the efforts of the myriad bilateral, multilateral, and nongovernmental organizations providing assistance.

In December 2002, the Afghan government replaced the implementation group with the consultative group mechanism to increase the effectiveness and efficiency of assistance coordination in support of the goals and objectives in the National Development Framework.[39] The consultative group mechanism in Afghanistan is similar to the implementation group in (1) its National Development Framework–based hierarchical structure and stated goals, (2) the role of the Afghan government, and (3) the membership and leadership of sector-specific groups.[40] (See fig. 18.)

[39]*Consultative group* is a World Bank term used to describe a process of consultations between the government of a recipient developing nation and the international community. Typically, the process involves monthly group meetings in country on sectoral or thematic issues. Such working groups bring together interested parties, including ministry representatives, donors, nongovernmental organizations, and UN agencies, to discuss strategic planning and improve coordination.

[40]Additional U.S. efforts to coordinate its assistance with that of the international community and the Afghan government included the biweekly humanitarian assistance conference call among relevant Afghan government, U.S., and international organizations providing humanitarian assistance and the Department of Defense's Civil Military Coordination cell located in Kabul. The cell's role is to coordinate PRT assistance efforts with the Afghan government.

Figure 18: International Afghan Assistance Coordination Mechanisms, Fiscal Years 2002–2003



Source: GAO analysis of U.N. and Afghan government information.

By the end of fiscal year 2003, the consultative group had not surmounted the conditions that prevented the implementation group from effectively coordinating assistance. In an August 2003 review of the status of the consultative group process, the Afghan government stated that the terms of reference for the sectoral groups were unclear and too broad, the groups were too large and lacked strong leadership, member commitment was uneven, and the overall potential of the mechanism was not utilized. In October 2003, the Minister of Rural Rehabilitation and Development stated that the consultative group process had not yet proven effective, that the consultative groups were too large to be effective decision-making bodies, and that assistance organizations continued to implement projects not

included in the Afghan government's national budget and priorities. The Minister of Agriculture stated that despite the efforts of consultative groups to coordinate donor efforts, donor governments and assistance agencies continued to develop their own strategies and implement projects outside the Afghan government's national budget.

Achievement of U.S. Goals Uncertain Given Precedents, Obstacles

The attainment of the U.S. goal of a stable, democratic Afghanistan remained uncertain given the historical precedents and the current Afghan environment, where numerous obstacles threatened reconstruction efforts in fiscal years 2002–2003. Afghanistan exhibits many of the characteristics that other nations have faced in their efforts to transition from a postconflict environment to a stable democracy. In fiscal years 2002–2003, deteriorating security and increasing opium cultivation in particular jeopardized U.S. reconstruction efforts, and efforts to counter these obstacles have had little success. Other hindrances to U.S. reconstruction efforts in Afghanistan during this period included small staff size, inadequate working conditions and equipment, and the timing of funding for reconstruction activities. In September 2003, the U.S. government announced an initiative called "Accelerating Success" to increase funding and expedite projects.

Afghanistan Exhibits Characteristics That Threatened Success in Other Postconflict Nations

Afghanistan displays many of the characteristics that have obstructed transitions to peace and stability in other postconflict countries. Analyses conducted by various experts on postconflict reconstruction have identified a number of such characteristics, including multiple competing parties, valuable and disposable resources such as opium, and a weakened state.[41] In addition, our past work has shown that despite variations in postconflict situations, efforts to rebuild require a secure environment, adequate resources, and the support of the host government and civil society.[42] Figure 19 compares characteristics of Afghanistan that we—and experts from the World Bank and other nongovernmental institutions—found to have affected reconstruction in other postconflict countries.

[41]According to the World Bank, of the 52 countries that have experienced civil conflict since 1960, 44 percent relapsed into violence within 5 years.

[42]U.S. General Accounting Office, *Foreign Assistance: Observations on Postconflict Assistance in Bosnia, Kosovo, and Afghanistan*, GAO-03-980T (Washington, D.C.: July 18, 2003).

Figure 19: Postconflict Characteristics That Impeded Stability in Other Countries Versus Afghanistan

Characteristics that impeded stability in prior postconflict countries	Assessment of postconflict characteristics in Afghanistan
Lack of international legitimacy under multilateral/interim administration	Current government legitimized through Bonn Agreement and June 2002 emergency *loya jirga*
Elite groups not aligned with the U.S.	Afghan government seeks modern, stable, democratic Afghanistan
Inability to absorb international assistance	Legitimate government established national development framework and budget, but government lacks capacity at all levels
Two or more competing parties/ weak national identity	Multiple armed factions divided on ethnic and tribal lines, multiple warlords compete for control
Disposable resources	Produces 70 percent of the world's opium, provides drug traffickers with billions of revenue annually
Weak peace agreement	Not all factions (e.g., Taliban) participated in the Bonn Agreement negotiations and the Agreement did not mandate international security forces outside of Kabul
Lack of state capacity	Central government lacks financial and military resources and regional warlords still hold power
Inexperience with constitutionalism	Afghanistan's experience with constitutionalism is limited
Groups opposed to regime change	Taliban, regional warlords, and international terrorists challenge and seek to undermine the current Afghan government
Hostile neighbors	Conflicting interests exist among the border countries of Iran, former Soviet states, and Pakistan
Large numbers of soldiers that require disarmament and demobilization	UN plans to disarm/demobilize 100,000 soldiers, but the country may have as many as 700,000 men in arms
Lack of financial commitment from international donors	In fiscal years 2002–2003 donors pledged $9.7 billion in assistance, but disbursed only $947 million for reconstruction projects

Source: GAO analyses of Stanford University, CSIS, World Bank, Carnegie Endowment for International Peace, and UN documents.

Pervasive Insecurity Threatened Reconstruction

Terrorist attacks by the Taliban and al Qaeda and the criminal activity of warlords contributed to the overall environment of insecurity throughout

Afghanistan and threatened the U.S. reconstruction effort in fiscal years 2002–2003. In March 2002, in a report to the UN Security Council, the UN Secretary General stated that security will remain the essential requirement for protecting the peace process in Afghanistan. In a report to the council 1 year later, he identified security as the most serious challenge to the peace process. Others in the international community, including the United States, recognize security as a prerequisite for the implementation of reconstruction efforts.

According to UN, nongovernmental organization, and U.S. reports, the security situation deteriorated throughout 2003. Incidents over the 2-year period included

- numerous skirmishes between coalition, al Qaeda, and Taliban troops in the border regions between Afghanistan and Pakistan;
- the attempted assassinations of the Minister of Defense and the President;
- the assassination of Vice President Qadir;
- the murder of an International Committee of the Red Cross worker;
- attacks on contractors working on USAID's Kabul-Kandahar road project that resulted in 14 injuries and 9 deaths;
- rocket attacks on U.S. and international military installations;
- sniper fire and grenade attacks on UN and nongovernmental organization vehicles and offices; and
- bombings in the center of Kabul and Kandahar, at the International Security Assistance Force headquarters, and of UN compounds.[43]

The increase in violence against aid organizations forced suspensions of assistance activities. For example, attacks against deminers forced the UN to suspend all humanitarian demining activities in 10 provinces in May 2003

[43]As of July 2003, the International Security Assistance Force reported having approximately 4,600 troops located in Kabul. These troops provide security only for the city of Kabul and the immediate vicinity. The bombing killed 4 soldiers and wounded 29 others.

including demining activities along the Kabul–Kandahar road. Similarly, the killings of three nongovernmental organization staff in August 2003 and a UN High Commissioner for Refugees staff member in November 2003 resulted in, among other things, the agency's removing its international staff and its reduced ability to deliver assistance to refugees and internally displaced people.

Furthermore, the criminality of the warlords' private armies continued to destabilize the country and impede reconstruction, according to the Department of State, the UN, Human Rights Watch, and other international experts. The warlords foster an illegitimate economy fueled by the smuggling of arms, drugs, and other goods. They also, in violation of the Bonn Agreement, control private armies of tens of thousands of armed men and illegally withhold hundreds of millions of dollars in customs duties collected at border points in the regions they control, depriving the central government of revenues needed to fund the country's central government and reconstruction effort. Repeated violent clashes among the warlords continued throughout fiscal years 2002–2003, forcing USAID and other assistance agencies to periodically suspend their assistance activities in the affected areas. The situation is further complicated by the fact that the United States uses warlord-commanded militias in its continuing counterinsurgency effort against the Taliban. The militia forces also provide security for PRTs. For example, troops commanded by one of the warlords in control of Hirat and its adjoining provinces provide security to U.S. civil affairs units stationed in Hirat.

The United States and the international community have taken several steps to improve security in Afghanistan. First, beginning in 2002, the Department of Defense established PRTs in several locations in Afghanistan. These company-sized units of 50 to 100 soldiers were charged with enhancing security over immense geographical areas in an effort to create a safe environment for reconstruction activities. For example, the PRT in Gardez, with 77 security personnel and 52 other personnel, had an area of responsibility that covered five provinces with a total land area of 70,000 square kilometers—an area about the size of South Carolina. Nongovernmental organization officials, as well as others, have criticized the size of the PRTs, stating that the units were too small to provide security for their areas of responsibility or create a secure environment for reconstruction projects.

In 2002, Department of Defense began funding efforts to help establish a national army in Afghanistan. As of late fiscal 2003, its efforts to train the first corps of the new army had fallen behind schedule, due in part to higher than expected rates of attrition among Afghan recruits. As of September 2003, approximately 5,500 soldiers had been trained. In 2003, the Department of State and the German government (the designated lead nation for police training in Afghanistan) began implementing plans to train 20,000 Afghan police by June 2004 and 50,000 by the end of 2005. By March 2004, 9,000 officers received training. Finally, the U.S. government considers the demobilization and reintegration of the warlords' forces a prerequisite for improving the country's security and succeeding in the international recovery effort.[44] According to the Department of State, this program is critical to efforts to reduce the destabilizing presence of these militias. As of March 2004, 5,200 soldiers had been disarmed.

Opium Production Threatened Stability

The illicit international trade in Afghan opiates also threatened Afghanistan's stability during fiscal years 2002–2003. The drug trade provided income for terrorists and warlords, fueling the factions that worked against stability and national unity.[45] According to UN and International Monetary Fund estimates, in 2002, Afghan farmers produced 3,422 metric tons of opium, providing $2.5 billion in trafficking revenue. This amount was equal to 68 percent of the total international assistance to Afghanistan disbursed for that year, or nearly 4.5 times the Afghan government's 2003 operating budget.[46] In 2003, UN estimates indicated that opium production in the country increased to approximately 3,600 metric tons, the second largest harvest in the country's history. Further, heroin laboratories have proliferated in Afghanistan in recent years. As a result of the increased poppy production and in-country heroin production, greater resources were available to Afghan criminal networks and others at odds with the central government. According to the Department of State, at the provincial and district levels, drug-related corruption is believed to be

[44]The Japanese government leads demobilization efforts.

[45]In 2001, the United States estimated that the Taliban collected at least $40 million in taxes on opium.

[46]Revenue to farmers was estimated at $1.2 billion, while revenue to traffickers was estimated to be $1.3 billion. Total income from opium cultivation and trafficking accounted for approximately 40-60 percent of Afghanistan's gross domestic product and is roughly equal to the value of Afghanistan's legitimate trade.

pervasive. Involvement ranges from direct participation in the criminal enterprise, to benefiting financially from taxation or other revenue streams generated by the narcotics trade.[47] The International Monetary Fund and Afghanistan's Minister of Finance have stated that the potential exists for Afghanistan to become a "narcostate," in which all legitimate institutions are infiltrated by the power and wealth of drug traffickers.

The overall increase in opium production in 2002-2003 occurred despite the counternarcotics efforts implemented by the Afghan government[48] and a number of international donors. During the 2-year period, the Afghan government and the international community, with funding from the United Kingdom and the United States, instituted alternative livelihood and poppy eradication programs in Afghanistan.[49] Total U.S. funding dedicated to counternarcotics was $23.4 million in fiscal 2002. The Department of State did not request or receive funding for counternarcotics efforts in fiscal 2003. Although the programs failed to stem the increase in opium production, the long-term effects of these programs remain to be seen.

Inadequate U.S. Resources Hindered Reconstruction

During fiscal years 2002–2003, limited resources further obstructed U.S. reconstruction efforts in Afghanistan. The USAID mission in Kabul was insufficiently staffed to carry out its responsibilities. In addition, inadequate working conditions and equipment—including cramped workspace, limited mobility, and unreliable communications and transportation equipment—hindered the implementation of assistance activities. Further, most reconstruction funding was not available until mid–fiscal year 2003. To help expedite reconstruction efforts and create more visible results, the U.S. initiated an "Accelerating Success" program in fiscal year 2004.

[47]*Department of State International Narcotics Control Strategy Report*–2003 (Washington, D.C.: March 2004).

[48]On January 17, 2002, the President of Afghanistan issued a decree stating that the existence of an opium-based economy was a matter of national security and should be fought by all means. In October 2002, the Afghan government instituted a Counter-Narcotics Directorate within its National Security Council to coordinate counternarcotics efforts. In May 2003, the President of Afghanistan signed a national counternarcotics strategy.

[49]The United Kingdom is the lead nation for counternarcotics efforts in Afghanistan. U.S. efforts included several alternative development/crops projects, including a program intended to restore cotton production in Helmand province, the traditional center of opium production in Afghanistan.

Lack of Staff Prevented Management and Oversight of Assistance Efforts

The USAID mission in Kabul was inadequately staffed to accomplish its management and oversight responsibilities. In its August 2002 action plan for assistance to Afghanistan, USAID stated that the number of positions it was allotted (12 slots) through the embassy's staffing allocation process was clearly inadequate to design and implement the large program planned for Afghanistan. USAID's mission in Afghanistan managed a $505 million program in 2003, one of the largest in the world; however, its staff size is one of the smallest. On average, an overseas USAID mission has a staff of 73 and a budget of approximately $51 million, or one staff member per about $700,000. In Afghanistan, that ratio in fiscal year 2003 was approximately one staff member per about $13 million. Although USAID/Kabul indicated in its 2003 staffing plan that it needed 113 staff, only 39 of these positions were filled during the year.

In its March 2003 risk assessment, USAID's Inspector General cited delays in the assignment and retention of qualified personnel as one of three material weaknesses in USAID's system of management controls in Afghanistan.[50] It also reported that the risks associated with this material weakness were amplified by, among other things, the magnitude of the funding being provided to Afghanistan and the pressure to implement projects in extremely short time frames. In August 2003, we reported that as a result of the decreases in U.S. direct-hire foreign service staff levels, increasing program demands, and a mostly ad hoc approach to workforce planning, USAID faces several human capital vulnerabilities, including the lack of a "surge capacity" to respond to emergencies such as postconflict situations in Afghanistan and Iraq.[51]

Because of the small number of USAID staff in Afghanistan and the numerous vacancies, staff members were often required to work long hours and take on additional responsibilities. For example, from March 2002 through June 2003, USAID's General Development Officer also periodically served as USAID's Acting Deputy Mission Director and Acting Mission Director and as the Department of State's Acting Deputy Chief of Mission and Chargé d'Affaires. During our visit in October 2003, USAID's mission had been without a Director for two months. At the time, the

[50]U.S. Agency for International Development, *Risk Assessment of Major Activities Managed by USAID/Afghanistan*, 5-306-03-001-S (Manila: USAID, 2003).

[51]U.S. General Accounting Office, *Foreign Assistance: Strategic Workforce Planning Can Help Address Current and Future Challenges*, GAO-03-946 (Washington, D.C.; Aug. 22, 2003).

Acting Mission Director was also the Cognizant Technical Officer overseeing the largest USAID project in Afghanistan. USAID tried to compensate for the gaps by deploying staff to Kabul on temporary duty. However, this did not ensure the continuity needed to administer a program effectively and efficiently.

As a result of the small staff size, staff members were overworked and found it difficult to keep up with their myriad responsibilities, including monitoring and evaluating projects.[52] The lack of monitoring was evidenced by the USAID staffs' inability to provide us with the exact location of the projects we asked to visit. In its December 2003 midterm program assessment of projects in Afghanistan, OTI noted that deficiencies in monitoring at construction sites contributed to a high rate of faulty construction, serious post-construction problems, and added costs.

Inadequate Working Conditions and Equipment Constrained Assistance Efforts

Inadequate working conditions and equipment—such as cramped workspace, limited mobility, and unreliable communications and transportation equipment—also hindered the implementation of assistance activities. In its August 2002 action plan for Afghanistan, USAID stated that without adequate working and living space, it might not be able to achieve its goals. In its March 2003 risk assessment for USAID activities in Afghanistan, USAID's Inspector General cited unsuitable working and living conditions as material weaknesses, stating that existing conditions in Afghanistan were "unsuitable for carrying out program design and implementation in an effective and efficient manner." During our visit in October 2003, we found that staff at the USAID mission faced severe space constraints. For example, we observed as many as eight USAID staff, their files, and office furniture and equipment sharing one small office. USAID took steps to obtain additional space at the embassy and in other U.S. locations in Kabul, but it was not available during fiscal year 2003.

In addition, Department of State security restrictions, imposed due to increasing levels of insecurity, severely limited USAID staff's ability to travel to field sites and monitor ongoing reconstruction efforts. In its March 2003 assessment, USAID's Inspector General cited the security restrictions as another material weakness, stating that staff members are not able to travel to project sites and monitor project implementation in an adequate manner with the frequency required. To improve its ability to monitor field

[52]USAID considers monitoring of its assistance effort critical for measuring the achievement of program outputs and results.

sites, USAID contracted for program managers through the International Organization for Migration (IOM).[53] Although some IOM staff contracted by USAID are U.S. citizens, they are not bound by the same security rules as direct-hire USAID staff and, therefore, can visit projects in the field. However, despite this action, we found that USAID was unable to adequately monitor projects.

The limitations on mobility made communications capability essential. However, according to U.S. and international officials in Afghanistan, e-mail and cellular phone service is intermittently reliable within Kabul and less reliable between provinces, making it difficult to contact staff and contractors in the field. PRT staff stated that they lacked adequate mobile secure communications equipment, and some had to purchase their own geographic positioning systems.

In addition, PRT staff in the field relied on old vehicles that the United States leased from local vendors. The frequent breakdown of the vehicles and the lack of replacement parts severely limited staff's ability to carry out their responsibilities. For example, according to PRT officials we spoke with, most of the vehicles used are approximately 10 years old—with some having logged more than 100,000 miles—break down frequently, and are not designed for the rigorous terrain of Afghanistan. For example, senior PRT officials in Hirat told us that, in 2003, they made two unsuccessful attempts to reach Chaghcharan, the capital of Ghor, the province adjoining Hirat province. During a third attempt, one vehicle experienced 14 flat tires in 3 days.[54] The PRT staff said that because the vehicles were in such poor condition, the staff spent much of their time on the road searching for spare parts and repairing vehicles instead of identifying assistance needs and implementing projects.

Funding Delays Slowed Reconstruction Efforts

Although the United States provided significant humanitarian assistance to Afghanistan in fiscal 2002, very little money was available to USAID for reconstruction until the second half of fiscal year 2003. USAID considers adequate funding a prerequisite for the success of the reconstruction effort. However, according to USAID officials, because they did not know when

[53]IOM was established in 1951 as an intergovernmental organization to resettle European displaced persons, refugees, and migrants. Today it engages in a variety of migration management activities throughout the world.

[54] The distance between Hirat and Chaghcharan is approximately 200 miles.

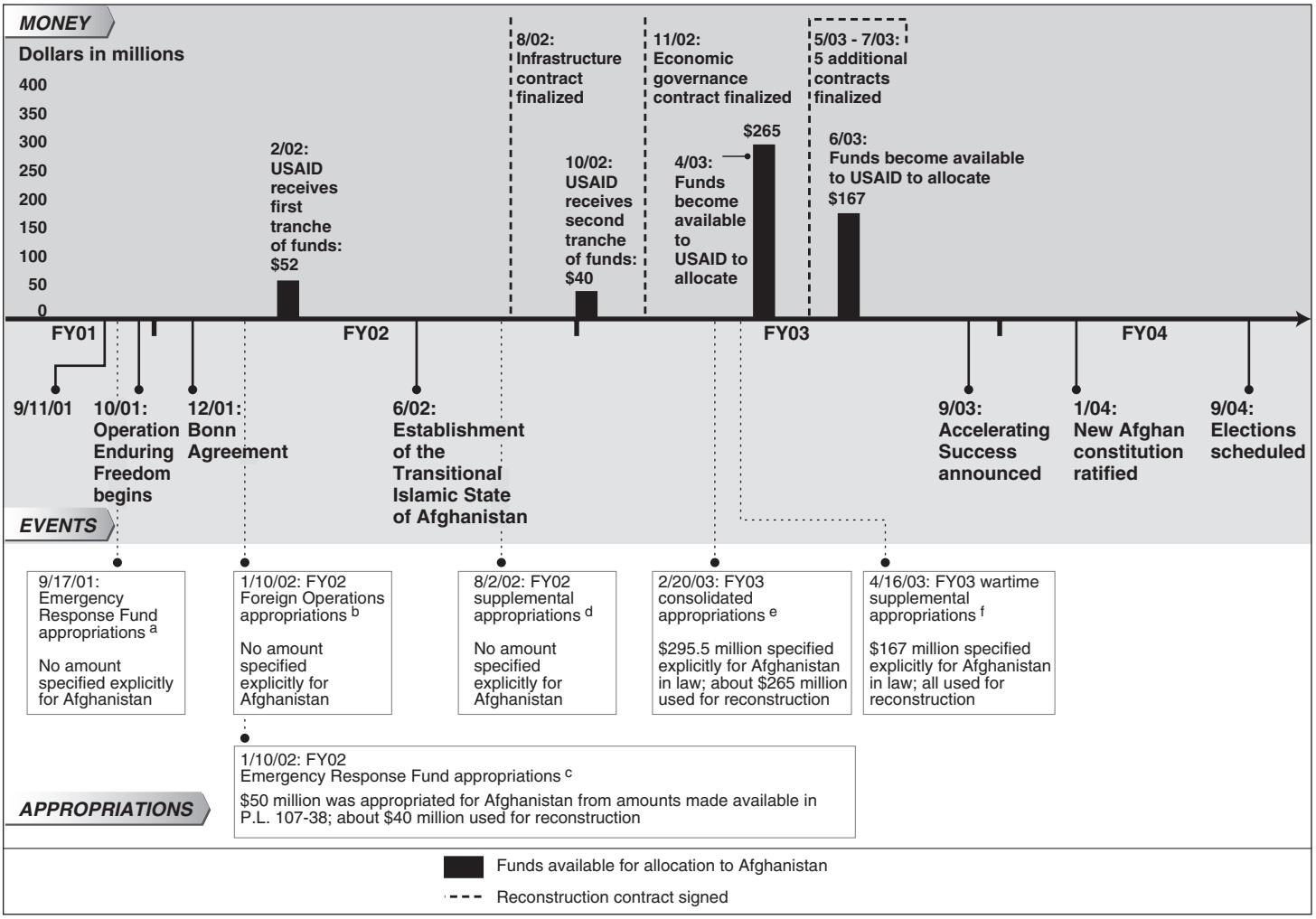
they would receive additional funding, they were unable to develop and plan for long-term resource-intensive reconstruction projects and instead focused on short-term projects that required less money; some of these served as pilots for the longer-term projects begun later in fiscal year 2003.

During fiscal years 2002–2003, funding for reconstruction projects in Afghanistan was allocated to USAID programming offices in four increments. According to USAID, an initial allotment for $52 million for reconstruction was made in February 2002; at the time, the programming offices were assured that more funding was imminent. About 8 months later, USAID obtained an additional $40 million; however, some of the money was used for emergency winterization measures, such as providing food and shelter, to stave off another humanitarian crisis. Since there was no Afghanistan— specific request for fiscal 2002, $80 million was supplemental funding, while the remaining $12 million was reprogrammed funds from existing assistance accounts. As a result, USAID was able to initiate only two major reconstruction programs, infrastructure rehabilitation and the reform and development of economic governance, by the first anniversary of the Bonn Agreement in late 2002.[55] In contrast, the rate of funding for rebuilding Iraq was much faster. Specifically, in less than 1 month after the U.S. announced an end to major hostilities in Iraq, USAID obligated $118 million for reconstruction activities from the Iraq Relief and Reconstruction Fund account. By the end of December 2003, 7 months later, USAID obligated about $1.5 billion for Iraq reconstruction from this account.

Although there was no specific request for funding for Afghanistan included in the President's fiscal year 2003 budget, funding became available when Congress appropriated $295.5 million for Afghanistan in February 2003. USAID officials reported that the allotments from this appropriation began in April 2003, and USAID targeted about $265 million toward longer-term reconstruction projects and $30 million for short-term projects. In April 2003, Congress passed the fiscal 2003 supplemental appropriations bill that included $167 million for Afghanistan. The allotments from this appropriation began in June 2003. All of this funding was used for longer-term reconstruction. (See fig. 20.)

[55]To expedite its program in Afghanistan, USAID obtained waivers that authorized, among other things, other than fully competitive procedures for awarding grants and cooperative agreements, and for the procurement of goods and services. According to USAID documents, these waivers allowed USAID to award its contracts for infrastructure reconstruction and economic governance within 5 and 6 weeks, respectively.

Figure 20: Time Line of USAID Funding for Reconstruction Assistance to Afghanistan



Source: GAO analysis.

[a]Public Law 107-38, 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States

[b]Public Law 107-115, Foreign Operations, Export Financing, and Related Programs Act, 2002

[c]Public Law 107-117, Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002

[d]Public Law 107-206, 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States

[e]Public Law 108-7, Consolidated Appropriations Resolution, 2003, and for Other Purposes

[f]Public Law 108-11, Emergency Wartime Supplemental Appropriations Act 2003.

Because of the delays in funding during the 17-month period following the signing of the Bonn Agreement, USAID had to cancel projects, reallocate funding from some projects in order to keep other projects operating, and delay the implementation of 5 of its 7 major reconstruction contracts until spring and summer of 2003. According to USAID officials responsible for the management of USAID's assistance to Afghanistan in fiscal years 2002–2003, if funding had been provided sooner and in greater amounts, major contracts could have been awarded sooner, a greater number of projects could have been implemented over the 2-year period, and more results could have been achieved.

Rate of International Donor Funding Was Also Slow

The funding provided by the United States in fiscal years 2002–2003 was part of the larger international reconstruction effort in Afghanistan. The Afghan government estimated that Afghanistan needs $30 billion over the 5-year period 2004–2008 for what it defines as high-priority reconstruction efforts. According to the Center on International Cooperation, as of May 2003, $947 million of the international disbursements had been used to begin reconstruction projects. Despite Afghanistan's stated need and the importance that the United States and the international community assigned to the reconstruction effort, Afghanistan received significantly less international assistance over fiscal years 2002–2003 than was provided during the first 2 years of other recent postconflict, complex emergencies over a similar time period. According to analyses by the International Monetary Fund, RAND Corporation, and others, Afghanistan received about $67 in annual per capita assistance in 2002 and 2003; by contrast, the annual per capita aid provided during the first 2 years in other recent postconflict settings was greater. For example, annual per capita assistance was $256 in East Timor (1999–2001) and $249 in Bosnia (1995–1997). At the October 19, 2003, meeting of the Consultative Group Standing Committee, the Afghan government warned the international community that the reconstruction effort might fail and that success would occur only if the rate of international obligations were increased and national reconstruction projects were fully funded.

Accelerating Success Initiative Designed to Increase Funding for Reconstruction

The U.S. government announced in September 2003 a new initiative called "Accelerating Success," to increase funding and expedite the reconstruction efforts, particularly regarding infrastructure, democratization and human rights, and security. The initiative was designed to be implemented in the 9-months leading up to the presidential elections planned for June 2004.[56] The U.S. government plans to provide $1.76 billion[57] for the acceleration effort. Approximately $1 billion of that amount would provide funding for elections, major and secondary road construction, health and education programs, economic and budget support to the Afghan government, senior advisers and technical experts, and private sector initiatives. The remaining $700 million would be targeted toward building the Afghan National Army, training and equipping the police force, expanding the counternarcotics program, and establishing rule of law.[58] Funding for the initiative was appropriated in November 2003; however, USAID did not receive the money until January/February 2004, leaving only 7 months to complete visible reconstruction projects before the September election. Moreover, the need to evaluate projects quickly will increase under the initiative, but no additional funds have been included for this purpose.

In April 2003, prior to the "Accelerating Success" initiative, at the request of President Karzai, the United States decided to complete the first layer of pavement of the Kabul-Kandahar road by December 2003 instead of December 2005. Under the original plan, the estimated cost to bring the road up to international standards was $113 million; the United States pledged $80 million, while Saudi Arabia and Japan each pledged an additional $50 million. In shortening the timeline by 2 years, the United States assumed responsibility for 389 kilometers of the 482-kilometer distance.[59] (See fig. 21.) Consequently, the United States hired several more

[56]In late March 2003, President Karzai announced that the election would be postponed until September 2004.

[57]The "Accelerating Success" program provides an extra $1.63 billion, in addition to the regular fiscal 2004 request, and $135 million in drawdown authority provided in the Afghanistan Freedom Support Act.

[58]The international community at a conference in Dubai pledged approximately $125 million in new money in late 2003. Consequently, the United States encouraged other donors to accelerate the rate at which they give their initial pledges so that the impact of reconstruction can be felt before Afghanistan's 2004 elections.

[59]Japan assumed responsibility for the remaining 50 kilometers leading into Kandahar. The remaining 43 kilometers had been repaired during the Taliban rule.

subcontractors, increased the labor and security forces, imported additional equipment, and tapped the world market of asphalt. The first layer of pavement was completed about 17 months after the contract was signed, and the road opened on December 16, 2003. By the time in 2004 that contractors lay the final layers of asphalt, repair the road's bridges, and construct the culverts, USAID projects that the road's total cost to the United States will be $270 million, more than double the original cost estimate, due to accelerating the project.

Figure 21: Division of Responsibility for Repairing the 482-kilometer Kabul-Kandahar Highway



Source: GAO.

Conclusions

After 23 years of war, the reconstruction needs of Afghanistan are immense. Since the fall of the Taliban regime in October 2001, the United States has viewed the establishment of a stable, democratic Afghanistan as essential to U.S. national security. The United States, in cooperation with the international community, is attempting to rebuild Afghanistan and help the country become a stable and functioning democracy. U.S.-led efforts in fiscal years 2002–2003 helped avert a humanitarian crisis; however, conditions in Afghanistan, such as the deteriorating security situation, the relative weakness of the central government, and the increase in opium production, complicate the longer-term reconstruction process and threaten its ultimate success. In addition, despite a consensus that reconstruction assistance is essential to achieving the U.S. goal in Afghanistan, most funding for reconstruction in fiscal years 2002–2003 was not allocated until 17 months after the signing of the Bonn Agreement. This delay, as well as a lack of staff and equipment, further hindered U.S. efforts. Consequently, overall progress towards Afghanistan's reconstruction goals by the end of fiscal year 2003 was limited.

The President's broad strategy published in February 2003 and reported on semiannually states that success in Afghanistan demands that the U.S. government follow a coherent, consistent, and closely coordinated strategy. However, for most of fiscal years 2002–2003, the United States lacked such a strategy. In addition, USAID, which provided the majority of U.S. assistance to Afghanistan, lacked a complete operational strategy to guide its nonsecurity-related efforts, making it difficult for the agency to integrate projects, focus available resources, and be held accountable for achieving measurable results. The need for such a strategy has become more vital given that, between August 2002 and July 2003, USAID awarded seven major multiyear reconstruction contracts worth hundreds of millions of dollars. Further, most of the U.S. agencies providing assistance to Afghanistan did not have readily available comprehensive financial data on their efforts, limiting the ability of individuals and institutions charged with coordinating and overseeing the assistance to execute these responsibilities.

Recommendations for Executive Action

We recommend that the Administrator of USAID revise its strategy for the agency's assistance program in Afghanistan. The revised strategy should, among other things, (1) contain measurable goals, specific time frames, and resource levels; (2) delineate responsibilities; (3) identify external factors that could significantly affect the achievement of its goals; and (4)

include a schedule for program evaluations that assess progress against the strategy's goals.

In addition, to improve oversight of U.S. assistance to Afghanistan, we are making two recommendations to the Secretary of State. We recommend that the Secretary of State direct the Coordinator for U.S. Assistance to Afghanistan to (1) produce an annual consolidated budget report for all assistance to Afghanistan and (2) semiannually report obligations and expenditures for the assistance provided, delineated by relevant U.S. agencies and the bureaus and offices within each agency semiannually.

Agency Comments and Our Evaluation

We provided a draft of this report to the Departments of State and Defense and to the U.S. Agency for International Development. State's and USAID's written comments are presented in appendixes VI and VII, respectively. State and USAID generally concurred with much of the information presented on the situation in Afghanistan for the period covered by our review. State emphasized that despite security and other challenges, significant progress had been made, not only with respect to humanitarian and short-term assistance, but also in advancing long-term security, reconstruction, and governance objectives. USAID stated that the report presented a fair picture of the situation in Afghanistan at the end of fiscal year 2003, when USAID's large reconstruction efforts were just beginning. Both agencies included in their response additional information on more recent activities taken and progress made. The Department of Defense did not provide official written comments, but provided technical comments, as did USAID, that we have incorporated where appropriate.

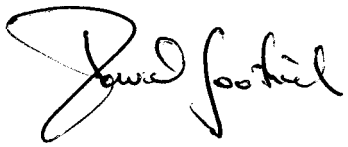
In response to our recommendation that USAID revise its operational strategy for Afghanistan to include details such as measurable goals, timeframes, and required resources, USAID said that its less comprehensive interim strategy was appropriate given the situation in Afghanistan during the early phases of the ongoing efforts. While we recognize in the report that the strategy was an interim strategy, the need for a more complete strategy is vital due to the large increase in USAID assistance funding for Afghanistan. USAID said that it is committed to developing a standard strategic plan for Afghanistan during 2004, which would be consistent with our recommendation. The Department of State disagreed with our finding that the United States lacks a complete and integrated assistance strategy, citing its December 15, 2003 report to Congress, titled *Fiscal Year 2004 Strategic and Financial Plan for Reconstruction and Related Activities in Afghanistan*. In the plan, State

noted that the United States is pursuing a three-fold strategy in Afghanistan, focusing on security, reconstruction, and governance. We found that most of the strategies that were published in fiscal years 2002 and 2003 lacked details on funding and other resources, measurable goals, timeframes, as well as a means to measure progress. However, in the report, we also cite State's June 2003 Mission Performance Plan as meeting many of the requirements for a government-wide operational strategy. Although the fiscal year 2004 plan cited by State in its comments includes more details on the U.S. assistance budget for Afghanistan, like some of the previously published strategies, it lacks operational details, including time frames, measurable goals, and a means to measure progress toward those goals.

In response to our recommendation that State produce an annual consolidated budget for all U.S. assistance to Afghanistan and report to Congress semiannually on obligations and expenditures, State emphasized that policymakers are provided with information on U.S. obligations weekly, and that close interagency collaboration occurs regarding all funding issues. In addition, State said that it already keeps Congress regularly informed through staff briefings, hearings, and mandated reports. We disagree. As we reported, complete and readily accessible obligation and expenditure data were not available, and consequently, it is difficult for the Coordinator to determine the extent to which U.S. assistance dollars are being used to achieve measurable results in Afghanistan. Moreover, we found that government-wide expenditure data on U.S. assistance to Afghanistan is not collected, obligation data is collected on an ad hoc basis, and that the Coordinator's office experienced difficulty in consistently collecting complete and accurate obligation data from U.S. government agencies. Further reporting obligation data alone is insufficient. Obligation data measures the extent to which contracts have been awarded, orders placed, and similar transactions, not the extent to which money actually has been spent on the ground on visible projects. Consequently, reporting obligations alone does not provide an accurate portrayal of the progress of the assistance effort. For example, as our report shows, although $647 million was obligated for reconstruction projects in fiscal 2002 and 2003, less than a third of the total, or $214 million was actually spent. Regular reporting of both obligations and expenditures for U.S. assistance to Afghanistan would provide the Coordinator and Congress a more complete picture of what funds actually have been spent on visible projects.

We are sending copies of this report to other interested congressional committees. We are also sending copies to the Administrator of USAID, the Secretary of State, and the Secretary of Defense. We also will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-3149. Other GAO contacts and staff acknowledgements are listed in appendix VIII.



David Gootnick, Director
International Affairs and Trade

Objectives, Scope, and Methodology

Section 106 of the Afghanistan Freedom Support Act of 2002 directs GAO to monitor U.S. humanitarian and reconstruction assistance to Afghanistan. To meet the requirements of the directive and provide Congress with a comprehensive accounting of U.S. assistance to Afghanistan for fiscal years 2002–2003, we (1) analyzed U.S. obligations and expenditures; (2) identified the results of assistance projects through September 30, 2003; (3) evaluated U.S. and international assistance coordination mechanisms and the U.S. assistance strategy; and (4) examined the major obstacles that affected the achievement of U.S. policy goals and the reconstruction effort.

We collected data on fiscal years 2002 and 2003 obligations and expenditures from the U.S. departments and agencies responsible for implementing U.S. government–funded projects in Afghanistan. These include U.S. Departments of Agriculture, Defense, Health and Human Services, State, and Treasury; the U.S. Trade and Development Agency; and the U.S. Agency for International Development (USAID). Because there is no single repository of financial information for all U.S. assistance in Afghanistan, we contacted each agency directly. In addition, because the Department of State does not have a consolidated financial reporting mechanism for programs in Afghanistan, we contacted each bureau and office separately—including the Bureaus of Population, Refugees, and Migration, and International Narcotics and Law Enforcement; and the Offices of International Information Programs, Humanitarian Demining Programs, and Trafficking in Persons.

To determine which funds were applied to humanitarian and quick-impact projects and which were applied to longer-term reconstruction funding, we requested the agencies to designate their funding accordingly. In the case of USAID, we relied on the stated mission of the responsible funding bureau to make the determination. For example, the missions of the Office of Foreign Disaster Assistance and Office of Transition Initiatives include addressing emergency situations and implementing quick-impact projects, respectively.

Since USAID did not provide separate financial management records for fiscal years 2002 and 2003, we, in consultation with USAID, sorted the obligation and expenditure data by year to arrive at the fiscal year breakdowns that appear in this report. The Department of Defense was unable to disaggregate PRT project data by fiscal year. The fiscal 2002 obligations and expenditures in the report include only funds spent on humanitarian daily rations, while the fiscal 2003 figures include all PRT funds in 2002 and 2003.

To delineate how funding and projects were distributed by province, we combined information from both USAID and the Department of Defense. USAID provided the information from a programmatic, rather than a financial database, as the financial database did not include data by location. Because the programmatic database had been updated only to September 17, 2003, the numbers used for figure 5 are less than the total obligations reported as of September 30, 2003. However, according to USAID, it can be assumed that the proportion of assistance by province did not change during that time lag. Also as a result of the data being drawn from a programmatic database, we are unable to show expenditures by province, because the database tracks only obligations.

To assess the reliability of the obligations and expenditures data from U.S. agencies providing assistance to Afghanistan, we (1) interviewed officials at the Departments of Defense, State, and USAID regarding their methods of gathering, managing, and using data; (2) reviewed USAID's financial audit statement; and (3) compared the data we gathered with USAID's Congressional Budget Justifications and the Department of State's 150 account documentation, as well as with the government-wide Afghanistan assistance compilation done by the Department of State's Resource Management bureau. A Department of State official stated that the data State compiled are not completely accurate, due in part to the lack of a requirement for all agencies to report to one central office on a regular basis, which results in variation in the frequency of reporting by individual agencies and differences in how agencies track data. However, the Department of State relies on these data for decision-making purposes and to track how quickly money for Afghanistan is being used. Based on our assessment, we conclude that the data are sufficiently reliable for the purposes of showing, in gross numbers, the level of nonsecurity-related assistance that the U.S. government provided to Afghanistan in fiscal years 2002 and 2003.

To assess the reliability of the data on the pledges and disbursements made by international donors, we (1) interviewed the official at the Department of State who is responsible for compiling these data based on information provided by the Government of Afghanistan and (2) performed some basic reasonableness checks of the data against other sources of information. We determined that the data are sufficiently reliable for the purpose of making a broad comparison of the United States' contributions to those of other major donors and the combined total for all other donors. However, we also noted several limitations in the data, notably the fact that the data are largely self-reported by donor nations to the Afghan government and

are affected by differences in exchange rates. In addition, donors both over- and under-report due to varying definitions of disbursement. Furthermore, the data on larger donors are considered more reliable than the data on smaller donors, according to the Department of State. Due to these limitations, and the fact that we could not contact each of the donors, we were unable to determine the reliability of the precise dollars amounts pledged and disbursed by every donor. Nevertheless, because these are the only available data and are used by the Department of State, we present the dollar amounts reported to have been pledged and disbursed by each donor in appendix V.

To examine the results of assistance projects through September 30, 2003, we collected and analyzed information from the Departments of State and Defense, and USAID in Washington, D.C., which outlined policy goals, basic strategies, program objectives, and monitoring efforts. We also collected and analyzed pertinent reports and testimony these agencies presented to Congress. In October 2003, we traveled to Afghanistan to examine the implementation of USAID and the Department of Defense's assistance-related operations. While in country, we spent 13 days in the capital city, Kabul, interviewing officials from the Afghan Ministries of Finance, Health, Agriculture, and Rural Rehabilitation and Development; the Afghan commissions on Human Rights and the Judicial Reform; the UN Assistance Mission in Afghanistan; the UN Development Program (UNDP); and the U.S. Departments of State and Defense and USAID. We also met with most of USAID's primary implementing partners (including the Louis Berger Group, Creative Associates, Management Sciences for Health, and Bearing Point) as well as nongovernmental organizations not funded by the United States, such as the Afghanistan Research and Evaluation Unit and the Danish Committee for Aid to Afghan Refugees. In Kabul, we inspected Afghanistan's new banking system, customs house, and the rehabilitation of the Rabia Balkhi Women's Hospital. We also spent a total of 7 days in the Bamian, Kunduz, and Hirat provinces, where we inspected U.S.-funded projects, implemented primarily by either the OTI or the Department of Defense's PRTs. While in the provinces, we met with an Afghan *shura* (community council), teachers, and other community members involved in, or affected by, U.S. reconstruction projects. Constraints placed on our movement within Afghanistan by the U.S. Embassy due to security concerns limited the number of project sites we could visit.

To analyze the assistance coordination mechanisms developed by the U.S. government and the international community, we met with Department of State staff responsible for assistance coordination and staff from USAID,

and the Departments of Agriculture, Commerce, Defense, Health and Human Services, Labor, Treasury, and State involved in the provision of assistance, to obtain their views on coordination. In addition, we reviewed the U.S. National Security Strategy, the Department of State/USAID consolidated strategic plan for 2004-2009, the President's Security Strategy for Afghanistan, the U.S. Embassy Kabul Mission Performance Plan, and USAID's strategy and action plan for Afghanistan. Using the criteria contained in the U.S. Government Performance and Results Act and USAID Automated Directives System, we examined USAID strategies to determine whether they contained the basic elements of an operational strategy articulated in the act and in agency guidance. Our analysis of international coordination mechanisms included a review of UN and Afghan government documents, including the Afghan National Development Framework and Budget, pertaining to the international coordination mechanisms utilized in Afghanistan in fiscal years 2002–2003. In addition, we met with officials from the Afghan Ministries of Agriculture, Finance, Health, and Rural Rehabilitation and Development to obtain their views on the evolution and status of the consultative group mechanism.

To analyze the obstacles that affected the implementation of U.S. reconstruction assistance, we examined analyses of common obstacles found in postconflict environments produced by the Carnegie Endowment for International Peace, the Center for Strategic and International Studies, the World Bank, Stanford University, and the RAND Corporation. We also reviewed as previous GAO work on the subject. We then compared those obstacles with the conditions present in Afghanistan in fiscal years 2002–2003. In addition, we reviewed reports produced by the Departments of Defense and State, the UN, the International Crisis Group, Human Rights Watch, the Bonn International Center for Conversion, as well as a U.N. Office on Drugs and Crime report on opium production in Afghanistan. To analyze other obstacles, including the lack of staff, equipment, and funding, we spoke with officials from the Department of Defense and USAID. In addition, we examined appropriation legislation, USAID's Congressional Budget Justifications, and the Inspector General's risk assessment of major activities managed by USAID/Afghanistan. Finally, we visited the USAID mission in Kabul, Afghanistan, and PRTs in Bamian, Kunduz, and Hirat, Afghanistan.

We conducted our review from August 2003–April 2004 in accordance with generally accepted government auditing standards.

Summary of the Key Provisions of the Bonn Agreement

After coalition forces ousted the Taliban government, the United Nations (U.N.) convened four Afghan groups to establish a blueprint for a power-sharing, interim government;[1] the Taliban were not included in these talks. The resulting document, officially entitled the "Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions," commonly called the Bonn Agreement or the Bonn Accord, was signed in Bonn, Germany on December 5, 2001.

I. General provisions

- Establish an Interim Authority by December 22, 2001.
- Establish the composition, functions, and governing procedures for the interim administration.
- Convene an emergency *loya jirga*,[2] or grand council, within 6 months of December 22, 2001 to decide on the Transitional Authority, which will govern until the Afghan population elects a representative government.
- Decide on a Transitional Authority by the emergency *loya jirga* until such time as a fully representative government can be elected through free and fair elections within 2 years of the convening of the emergency *loya jirga*.
- Hold constitutional *loya jirga* to establish a new constitution within 18 months of December 22, 2001.

[1]Afghanistan comprises both settled and nomadic populations, multiple religious and ethnic groups, and refugees. A new representative government would need to incorporate all of these groups.

[2]A *loya jirga* is a traditional grand assembly of elders, which has been used in Afghanistan for centuries.

II. Legal framework and judicial system

- The 1964 constitution and existing laws and regulations should be applied until the new constitution is written, excepting
 - where provisions of 1964 constitution are inconsistent with the Bonn Agreement, or relate to the monarchy or constitutional, executive, and legislative bodies
 - where existing laws and regulations are inconsistent with the Bonn Agreement, Afghanistan's international legal obligations, or the 1964 constitution.
- The interim authority shall have power to amend existing laws and regulations.
- Afghanistan shall have independent judicial power vested in a Supreme Court and other courts established by the Interim Administration. A Judicial Commission established by the Administration shall rebuild the justice system in accordance with Islamic principles, international standards, the rule of law, and Afghan legal traditions.

III. Interim Administration

- Composition: A chairman will preside over the cabinet-style interim government, which includes five vice chairmen and 24 other members.
- Procedures: Decisions will be made by consensus, or by majority vote where necessary, as long as 22 members are present. If the vote is split equally, the chairman holds the deciding vote.
- Functions: The Interim Authority shall conduct the day-to-day affairs of state. Among other things, it may, with the assistance of the UN, establish a single national currency and a central bank, a Civil Service Commission, a Human Rights Commission, and any other commission to review matters not covered in the agreement.

IV. The Special Independent Commission for the Convening of the Emergency *Loya Jirga*

- A 21-member, special, independent commission will be established to convene an emergency *loya jirga* within 6 months of the establishment of the Interim Authority. The emergency *loya jirga* will decide on a transitional authority to lead Afghanistan until a fully representative government is elected within 2 years of the convening of the *loya jirga*.

V. Final provisions

- Upon official transfer of power, all mujahidin, Afghan armed forces, and armed groups shall come under the command and control of the Interim Authority.

- The Interim Authority and emergency *Loya Jirga* shall act in accordance with basic human rights and international humanitarian law.

- The Interim Authority shall cooperate in the fight against terrorism, drugs, and organized crime.

- The Interim Authority and Special Independent Commission for the convening of the emergency *Loya Jirga* shall ensure the participation of women and the equitable representation of all ethnic and religious communities in the Interim Authority and emergency *Loya Jirga*.

- The Interim Authority shall adhere to Security Council resolution 1378.

- The Interim Authority shall elaborate on rules of procedure for the government as appropriate with UN guidance.

Annexes:
I. International Security Force
II. Role of the United Nations during the Interim Period
III. Request to the United Nations by the Participants at the UN talks on Afghanistan
IV. Composition of the Interim Administration

Summary of the Afghanistan Freedom Support Act of 2002

Name	Afghanistan Freedom Support Act of 2002, P.L. 107-327
Date	December 4, 2002
Major titles	I. Economic and Democratic Development Assistance for Afghanistan II. Military Assistance for Afghanistan and Certain other Foreign Countries and International Organizations III. Miscellaneous provisions
Purposes	• Assure U.S. security. • Address humanitarian crisis. • Fight illicit narcotics. • Promote a broad-based, multi-ethnic, gender-sensitive, and fully representative government. • Support Afghan government's projects. • Foster civil society. • Support reconstruction (create jobs, clear landmines, rebuild the agriculture, health care and educational sectors). • Provide resources to the Ministry for Women's Affairs. • Foster a pluralistic society that respects religious freedom.
Major types of assistance authorized	• Urgent humanitarian needs • Repatriation and resettlement of refugees and IDPs • Counternarcotics efforts

- Reestablishment of food security, rehabilitation of the agriculture sector, improvement in health conditions and the reconstruction of basic infrastructure
- Reestablishment of Afghanistan as a viable nation-state
- Market economy
- Assistance to women and girls

Table 2: Total assistance authorized: $3.3 billion between FY 2003 and 2006

Dollars in millions

	Fiscal years				
	2003	**2004**	**2005**	**2006**	**Total over 4 fiscal years**
Development Assistance	425	425[a]	425	425	**1,700**
Enterprise fund	300	0	0	0	**300**
Security assistance	300[b]	0	0	0	**300**
ISAF	500	500	0	0	**1,000**
Total (per FY)	**1,525**	**925**	**425**	**425**	**3,300**

Source: GAO analysis of data contained in the Afghanistan Freedom Support Act of 2002.

Note: Rough Breakdown of Authorizations by Fiscal Year

[a]P.L. 108-106 Sec. 2214 increased the FY 04 alloocation to $1.825 billion.

[b]P.L. 108-106 Sec. 2206 ammends this amount to $450 million.

Table 3: Earmarks: $170 million development assistance of $425 million total between FY 2003 and 2006

Dollars in millions

	Fiscal years				
	2003	2004	2005	2006	Total over 4 fiscal years
UNDCP[a]	15	15	15	15	**60**
Loya Jirga	10	10	10	0	**30**
Women's Ministry	15	15	15	15	**60**
NHRC[b]	5	5	5	5	**20**
Total	**45**	**45**	**45**	**35**	**170**

Source: GAO analysis of data contained in the Afghanistan Freedom Support Act of 2002.

Note: Rough breakdown of earmarks for FY 2003-2006. Up to 7% of each earmark is allowed for federal agency administration costs. In this case, that would be $12 million.

[a]U.N. Drug Control Program.

[b]National Human Rights Commission (renamed Afghan Independent Human Rights Commission).

Coordination

Designate a coordinator within the Department of State to:

- Design an overall strategy to advance U.S. interests in Afghanistan;
- Ensure coordination among U.S. agencies;
- Pursue coordination with other countries;
- Ensure proper management, implementation, and oversight of assistance; and,
- Resolve disputes among U.S. agencies with respect to Afghan assistance.

Strategies and Reports

Table 4: Required strategies and reports to be submitted to the House Committee on International Relations, Senate Committee on Foreign Relations, and both Appropriations committees

Section 206	Promoting secure delivery of humanitarian and other assistance in Afghanistan	Schedule	Approximate deadlines
	c(1)(A) Security strategy, Immediate and long-term needs (updating strategies required by P.L. 107-206)[a]	60 days after enactment of act	Feb. 2003
	c(1)(B) Description of progress towards poppy eradication	60 days after enactment of act	Feb. 2003
	c(2) Security strategy implementation reports	Every 6 months through 1/07	June and Dec. 2003-2007
Section 303	**Donor contributions to Afghanistan**	**Schedule**	**Approximate deadlines**
	c(1) Initial report (strategy and progress)	60 days after enactment	Feb. 2003
	Contributions status	90 days thereafter every 180 days through 12/31/04	4/03, 10/03, 4/04, 10/04

Source: GAO analysis of data contained in the Afghanistan Freedom Support Act of 2002.

[a]P.L. 107-206 2002 (Supplemental Appropriations Act for Further Recovery from and Response to Terrorist Attacks on the United States (required separate strategies for immediate security needs and long-term security needs.

Sunset

Authority expires after September 30, 2006.

Fiscal Years 2002-2003 Obligations and Expenditures for Humanitarian and Reconstruction Assistance by U.S. Agencies

Dollars in millions

	Fiscal year 2002		Fiscal year 2003	
Agency	**Obligations**	**Expenditures**	**Obligations**	**Expenditures**
U.S. Agency for International Development	436.34	379.59	505.64	128.31
Department of State				
Bureau for Population, Refugees, and Migration	145.85	142.33	87.70	72.79
International Narcotics and Law Enforcement	33.59	20.86	0[a]	0
Other State	11.00	11.00	8.68	6.66
Department of Defense	50.90	50.90	20.27	13.58
Department of Health and Human Services	2.74	2.74	5.61	5.61
Department of Agriculture	40.31	27.67	29.36	10.85
Department of Labor	6.30	0	0	0.57
U.S. Trade and Development Agency	0.35	0.35	3.17	1.59
Department of Treasury	0.55	0.46	1.12	0.64
Broadcasting Board of Governors	28.51	14.09	7.40	6.67
Overseas Private Investment Corporation	0	0	3.02	3.02
Total	**756.44**	**649.99**	**671.97**	**250.29**

Source: GAO analysis of U.S. agency data

[a]INL neither received nor requested funding for fiscal 2003.

Major Donors' Reported Pledges and Disbursements for Assistance to Afghanistan for Fiscal Years 2002-2003

Dollars in millions

Country	Total pledges since 2001[a]	Total disbursed since 2001
United States	3300	1428
Japan	500	448
European Commission	1245	386
United Kingdom	331	190
Germany	379	171
Canada	273	129
Netherlands	162	103
World Bank	600	89
Saudi Arabia	220	78
Spain	148	77
Italy	99	70
United Arab Emirates	70	70
India	310	69
Norway	93	63
Sweden	142	45
Denmark	106	45
Iran	500	33
China	152	30
France	62	30
Kuwait	45	20
Qatar	20	20
Australia	20	20
Pakistan	100	18
Finland	32	13
Belgium	34	12
Asian Development Bank	610	11
Austria	12	11
South Korea	45	10
Ireland	12	10
Switzerland	25	9
Luxembourg	5	4
Turkey	15	3
Greece	5	2

(Continued From Previous Page)

Dollars in millions

Country	Total pledges since 2001[a]	Total disbursed since 2001
Portugal	5	2
Russia[b]	60	0
Oman	6	0
Total	**9,743**	**3,719**

Sources: Department of State, Asian Development Bank

Notes: Figures cited relate to humanitarian and reconstruction donations only; military donor contributions are not included.

GAO was not able to determine the reliability of the specific dollar figures in this table. While we determined that the data are sufficiently reliable for broadly comparing U.S. contributions to those of major donors, we noted several limitations, namely (a) that they are affected by differences in exchange rates, (b) donors both over- and under-report due to varying definitions of disbursement, and (c) the data on larger donors are considered more reliable than the data on smaller donors.

[a]Pledges are inclusive from 2001-2003 and have a disbursement range of 1-6 years depending on donor.

[b]Russian assistance has been primarily in-kind donations.

Comments from the Department of State

United States Department of State

Assistant Secretary and Chief Financial Officer

Washington, D.C. 20520

MAY 21 2004

Ms. Jacqueline Williams-Bridgers
Managing Director
International Affairs and Trade
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "AFGHANISTAN RECONSTRUCTION: Deteriorating Security and Limited Resources Have Impeded Progress; Improvements in U.S. Strategy Needed," GAO Job Code 320210.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Tim Wilder, Deputy Director, Bureau of South Asian Affairs, at (202) 647-5267.

Sincerely,

Christopher B. Burnham

cc: GAO – Dave Bruno
SA – William Taylor
State/OIG – Mark Duda
State/H – Paul Kelly

Department of State Comments on the GAO Draft Report
Afghanistan Reconstruction: Deteriorating Security and Limited Resources Have Impeded Progress; Improvements in U.S. Strategy Needed
(GAO Job Code 320210)

The Department has reviewed the draft report regarding obstacles to progress in Afghanistan. While we concur with much that is in the report, we would emphasize that despite security and other challenges, significant progress has been made not only with respect to humanitarian and short-term assistance but also in advancing long-term security, reconstruction and governance objectives. Notably, the Afghan National Army has reached an operational strength of over 8,000 soldiers and continues to grow steadily in capacity, recently deploying to provincial centers. It is being joined by a rapidly growing police force that now numbers over 6,000 and will number 20,000 this summer. Reconstruction progress has not been limited to the Kabul-Kandahar-Herat road, but – as the report acknowledges – includes the construction of over 200 schools, rehabilitation of over 163 health facilities and rehabilitation of over 7000 rural irrigation structures. These are not minor achievements, and they are joined by many more (also referenced in the report). Most remarkable, given Afghanistan's tortured political history, has been the progress toward democratic governance -- with a constitution ratified in January and over 2.3 million voters registered to participate, to date, in elections scheduled for September 2004.

The Department takes issue with the report's assertion that the United States lacks a complete and integrated assistance strategy. On December 15, 2003 the Department submitted to Congress its report on the "FY 2004 Strategic and Financial Plan for Reconstruction and Related Activities in Afghanistan." The Department's Report explains that:

> *In concert with Afghan leaders and international partners, the United States is pursuing a three-fold, integrated strategy in Afghanistan, focusing on security, reconstruction and governance. Pursued in parallel, these three elements are mutually reinforcing and promise to create a virtuous cycle as (1) improved security creates conditions for accelerated reconstruction and stronger government, (2) reconstruction boosts stability and confidence in the government by delivering benefits to citizens and (3) as the growth of constitutional, democratic and*

effective government discredits those who would return Afghanistan to the anarchy and violence of the past.

This three-fold strategy has long underpinned U.S. assistance to Afghanistan and is bearing fruit, as attested by progress already noted.

The GAO report recommends that the Department of State produce (1) an annual consolidated budget report and (2) semiannual reports to Congress on obligations and expenditures for U.S. Assistance to Afghanistan. These recommendations appear to be related to the judgment that the "U.S. coordinator for assistance to Afghanistan, as well as others responsible for the coordination of U.S. assistance, lacked complete and accurate financial data in fiscal years 2002-2003." If so, we would emphasize that there is close inter-agency collaboration on all funding issues and the Coordinator and other policy makers are provided with a chart that tracks all U.S. obligations and available resources on a week-to-week basis – a chart that is available to Congress on request. Progress toward specific sectoral objectives is also carefully tracked on a month-to-month basis. The report notes the weekly meetings of Department Deputies to review progress and set priorities relating to Afghanistan. It neglects to mention the daily meetings of the Afghanistan Interagency Operations Group (AIOG), which has led to virtually seamless working-level coordination among DoD, State, Treasury, USAID, the NSC, OMB and other agencies on the full range of policy and programming issues, including funding. Congress is also kept regularly informed, at the staff level, at hearings and through numerous congressionally mandated reports, including the report cited above.

Comments from the U.S. Agency for International Development



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

MAY 19 2004

Mr. David Gootnick, Director
International Affairs and Trade
General Accounting Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Gootnick:

USAID welcomes the opportunity to respond to the audit report on Afghanistan Reconstruction. On balance, we think the audit report presents a fair picture of the situation in Afghanistan at the end of fiscal year 2003 when USAID's large reconstruction efforts were just getting underway. This letter will bring you up to date on the progress made since then. My comments will follow the order of the presentation in the report.

To begin, USAID is very proud that its early humanitarian assistance averted a famine in Afghanistan in the winter of 2002-3. This enormous effort saved countless lives and earned the United States tremendous good will.

We have taken measures to address the shortcomings noted in the report. For example:

- USAID now requires standard signage on all our projects that gives credit to the Governments of the United States and Afghanistan. A reproduction of the standard signage is attached hereto.
- USAID has signed agreements with five additional implementing organizations to speed up progress constructing and rehabilitating schools and clinics.
- One hundred percent of FY 2003 funds and nearly 70% of FY 2004 funds are now obligated. Obligation figures are updated monthly for the Afghanistan Interagency Operations Group chaired by the State Department's Coordinator for U.S. assistance to Afghanistan and the NSC

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WASHINGTON, D.C. 20523

in order to provide timely financial management information to aid interagency decision making.

- USAID staff in Afghanistan has grown from the 39 reported in the audit to 59 today (including six assigned to PRTs around the country). Office and living space also expanded when USAID was allotted space at Camp Phoenix, a U.S. military facility approximately 13 kilometers from the Embassy compound. Next month, USAID and other agencies are scheduled to move into new temporary facilities across the street from the Embassy compound. Between Camp Phoenix and the new compound across from the Embassy, office and living space no longer limit the size of our staff recruitment in Afghanistan.

We can also update you on the significant progress of the major projects identified in the report.

- The second layer of paving on the Kabul-Kandahar highway will be complete on schedule, in October 2004. On the Kandahar-Herat portion, the highway contractor is now working on 100 kilometers and several bridges in Farah and Herat provinces. USAID is on schedule to finish its portion of the Kandahar-Herat highway (approximately 329 kms) by the end of 2005.
- Contractors are also grading and paving almost 500 kilometers of secondary roads, primarily in the south and southeast, to connect provincial capitals and large towns to the new highway.
- Our health contractor has made grants to NGOs to operate clinics that will provide service to 4.8 million Afghans; trained, since September 2003, 1,384 health workers (including 578 community health workers and midwives—a key staffing constraint in addressing maternal mortality), and started construction on 72 health centers. Another program is now underway to train 5,500 women in literacy as a first step towards their training as Community Health Workers; a second program will more than double the number of trained midwives in Afghanistan.
- Our agricultural contractors have initiated irrigation projects to improve irrigation on 301,000 hectares—half of which are now complete. Approximately 350,000 livestock have been vaccinated or treated; a microfinance program has disbursed 675 loans and trained 850 loan officers; and 137,000 farmers are now served by 350 new extension agents. Three agricultural market centers have been constructed; work is underway on an additional 65, and a total of 100 will be complete this summer.
- Thanks to USAID's support in the customs sector, the Afghan government surpassed its target for domestic revenue collection for the Afghan fiscal

year ended March 20, 2004, collecting 10,090,500,000 Afghanis ($201M).

- Our education contractor has greatly expanded the Accelerated Learning program for the 2004 school year: over 137,000 students are enrolled in 17 provinces now—67% of the last group of enrollees were girls. 4,800 teachers were trained in the past year and thousands more are listening regularly to the radio-based teacher training program, now being broadcast in six provinces through local radio stations, and nationwide by way of a national broadcaster. Nearly 17 million textbooks are being provided in 2004.
- In the justice sector, USAID has renovated 2 courthouses and work is underway on 6 more. We have trained 120 potential judges and 183 court staff.
- USAID supports the UN effort for the September 2004 Presidential and parliamentary elections through civic education, political party development, and elections registration and operational support. In the last two weeks of April, 1,100 civic education workshops were held in five provinces, with nearly 30,000 participants (of whom 31% were women). A second effort trained 43,000 people (36% women) to explain the upcoming elections to their neighbors.

Finally, the report faults USAID for not preparing a strategic plan for its program in Afghanistan. As the report notes, we did prepare a strategy for Afghanistan early on, in July 2002, and we supplement it with project planning documents that include interim goals, indicators and specific results. The results for the most visible projects are tracked biweekly by the Deputies' Committee meeting chaired by the Deputy National Security Advisor at the White House. We think this level of planning and oversight is appropriate for the situation in Afghanistan and complies with agency directives on strategic planning. (The agency directives distinguish between "standard" and "interim" strategic plans. Countries in transition or experiencing high uncertainty because of drastic political, military, and/or economic events–like Afghanistan–are to prepare less comprehensive "interim" strategies.) The time and resources it would take to prepare the analyses required for a standard strategic plan was better spent directing the multitude of ongoing projects, so there was no "back sliding" on Afghanistan's progress. We are committed to developing a standard strategic plan for Afghanistan during 2004 now that our staffing in-country has reached adequate levels and a more permanent government has been established in Afghanistan.

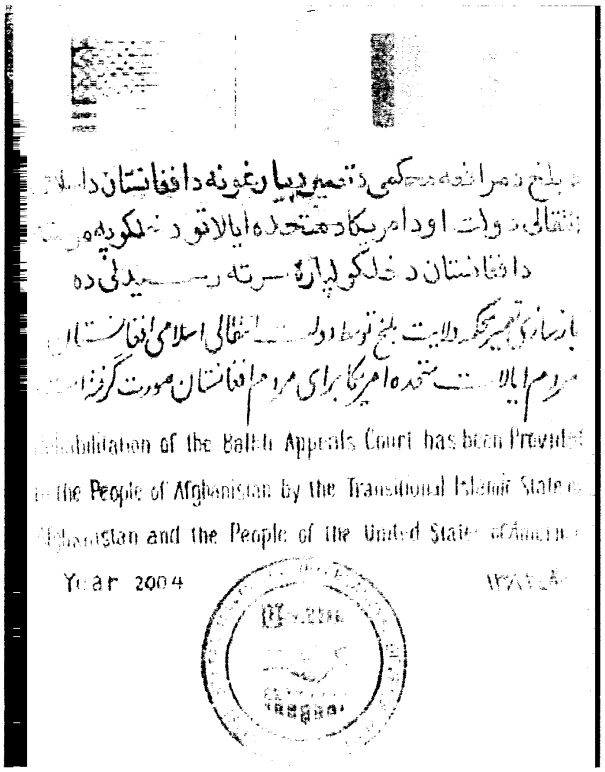
In summary, USAID has made great progress since the end of FY 2003. Long term projects are showing impressive results and in-country staffing is growing

steadily. This summer will be the busiest yet, in the lead up to the Presidential and Parliamentary elections. We are very proud of our contributions to date and look forward to sharing many more accomplishments with you in the coming months.

Sincerely,

John Marshall
Assistant Administrator
Bureau for Management

Enclosure: Photo of standard USAID/Afghanistan project signage.



بلخ د مرافعه محکمی د تعمیر د پیاوړتوب د افغانستان د اسلامی
انتقالی دولت او د امریکا متحده ایالاتو د خلکو په مرسته
د افغانستان د خلکو لپاره جوړه شوه

بازسازی و تجهیز محکمه ولایت بلخ توسط دولت اسلامی انتقالی افغانستان
مردم ایالات متحده امریکا برای مردم افغانستان صورت گرفته است

Rehabilitation of the Balkh Appeals Court has been Provided
the People of Afghanistan by the Transitional Islamic State o
Afghanistan and the People of the United States of America

Year 2004

GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

In addition to those named above, Miriam A. Carroll, Martin de Alteriis, Ernie Jackson, Reid Lowe, and Christina Werth made key contributions to this report.

GAO's Mission

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June 2004

REBUILDING IRAQ: Fiscal Year 2003 Contract Award Procedures and Management Challenges

United States General Accounting Office

GAO

Report to Congressional Committees

June 2004

REBUILDING IRAQ

Fiscal Year 2003 Contract Award Procedures and Management Challenges



GAO-04-605

June 2004

REBUILDING IRAQ

Fiscal Year 2003 Contract Award Procedures and Management Challenges

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-04-605, a report to congressional committees.

Why GAO Did This Study

Congress has appropriated more than $20 billion since April 2003 to support rebuilding efforts in Iraq. This complex undertaking, which is occurring in an unstable security environment and under significant time constraints, is being carried out largely through contracts with private-sector companies. As of September 2003, agencies had obligated nearly $3.7 billion on 100 contracts or task orders under existing contracts.

Given widespread congressional interest in ensuring that reconstruction contracts are awarded properly and administered effectively, GAO reviewed 25 contract actions that represented about 97 percent of the obligated funds. GAO determined whether agencies had complied with competition requirements in awarding new contracts and issuing task orders and evaluated agencies' initial efforts in carrying out contract administration tasks.

What GAO Recommends

GAO is making several recommendations to the Secretary of the Army to ensure compliance with requirements when issuing task orders to rebuild Iraq and to reduce cost risk for the government. GAO also is recommending that the Secretary of Defense develop a strategy to improve the delivery of acquisition support in any future operations. DOD generally concurred with the recommendations and said it is resolving the contracting issues.

www.gao.gov/cgi-bin/getrpt?GAO-04-605.

To view the full product, including the scope and methodology, click on the link above. For more information, contact John Doe at (202) 512-5555 or doej@gao.gov.

What GAO Found

Agencies used sole-source or limited competition approaches to issue new reconstruction contracts, and when doing so, generally complied with applicable laws and regulations. Agencies did not, however, always comply with requirements when issuing task orders under existing contracts. For new contracts, the law generally requires the use of full and open competition, where all responsible prospective contractors are allowed to compete, but permits sole-source or limited competition awards in specified circumstances, such as when only one source is available or to meet urgent requirements. All of the 14 new contracts GAO examined were awarded without full and open competition, but each involved circumstances that the law recognizes as permitting such awards. For example, the Army Corps of Engineers properly awarded a sole-source contract for rebuilding Iraq's oil infrastructure to the only contractor that was determined to be in a position to provide the services within the required time frame. The Corps documented the rationale in a written justification, which was approved by the appropriate official. The U.S. Agency for International Development properly awarded seven contracts using limited competition. The Department of State, however, justified the use of limited competition by citing an authority that may not be a recognized exception to competition requirements, although a recognized exception could have been used.

There was a lesser degree of compliance when agencies issued 11 task orders under existing contracts. Task orders are deemed by law to satisfy competition requirements if they are within the scope, period of performance, and maximum value of a properly awarded underlying contract. GAO found several instances where contracting officers issued task orders for work that was not within the scope of the underlying contracts. For example, to obtain media development services and various subject matter experts, the Defense Contracting Command-Washington placed two orders using a management improvement contract awarded under the General Services Administration's schedule program. But neither of the two orders involved management improvement activities. Work under these and other orders should have been awarded using competitive procedures or, due to the exigent circumstances, supported by a justification for other than full and open competition.

The agencies encountered various contract administration challenges during the early stages of the reconstruction effort, stemming in part from inadequate staffing, lack of clearly defined roles and responsibilities, changing requirements, and security constraints. While some of these issues have been addressed, staffing and security remain major concerns. Additionally, the Army and its contractors have yet to agree on key terms and conditions, including the projected cost, on nearly $1.8 billion worth of reconstruction work that either has been completed or is well under way. Until contract terms are defined, cost risks for the government remain and contract cost control incentives are likely to be less effective.

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Abbreviations

CICA	Competition in Contracting Act
CPA	Coalition Provisional Authority
DCAA	Defense Contract Audit Agency
DCC-W	Defense Contracting Command-Washington
DCMA	Defense Contract Management Agency
DOD	Department of Defense
FAR	Federal Acquisition Regulation
GAO	General Accounting Office
GSA	General Services Administration
LOGCAP	Logistics Civil Augmentation Program
OMB	Office of Management and Budget
SAIC	Science Applications International Corporation
USAID	U.S. Agency for International Development

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GAO
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Congressional Committees

The United States, along with its coalition partners and various international organizations and donors, has embarked on a significant effort to rebuild Iraq in the aftermath of the war that replaced that country's regime. Since April 2003, Congress has appropriated more than $20 billion to support rebuilding efforts such as restoring Iraq's oil and electric infrastructures; reconstituting Iraq's national army and local police forces; assisting in developing a market-based economy; and improving the country's health, education, and medical services. The Coalition Provisional Authority (CPA), an entity established to manage Iraqi affairs on a temporary basis, is overseeing the rebuilding effort. This complex undertaking, which is occurring in an unstable security environment and under significant time constraints, is being carried out largely through contracts with private-sector companies.

Given the widespread congressional interest in ensuring that reconstruction contracts are awarded properly and administered effectively, we initiated a review of the contracts awarded to rebuild Iraq. Our review focused on reconstruction-related contract actions by the Department of Defense (DOD) (primarily the U.S. Army, including the Army Corps of Engineers), the U.S. Agency for International Development (USAID), and the Department of State through September 30, 2003. Many of these contract actions were awarded on behalf of the CPA, especially by the Army, which acted as the CPA's executive agent. Our objectives were to (1) determine whether agencies had complied with applicable laws and regulations governing competition in awarding new contracts and issuing task orders under existing contracts, and (2) evaluate agencies' initial efforts in carrying out contract administration tasks.

Scope and Methodology

We reviewed reconstruction contracts that had been funded, in whole or in part, with U.S. appropriated funds. We focused our review on new contracts, modifications, task orders under existing contracts, and contract actions using the General Services Administration's (GSA) federal supply schedule program as of September 30, 2003. We did not review contracts that were funded entirely with international or Iraqi national funds, such as funds seized after the 1991 Gulf War or funds that were discovered during Operation Iraqi Freedom in 2003. We also did not

review contracts or task orders that were used only for support of military operations or grants and cooperative agreements awarded to international or nongovernmental organizations. We continue to evaluate various issues related to military operations and the progress in rebuilding Iraq under separate reviews.[1]

To determine the number of reconstruction contract actions, the types of contract actions, the procedures used to make the awards, and the funding sources, we requested information from each of the principal organizations responsible for rebuilding activities in Iraq: the CPA, the Office of the Secretary of Defense, the Department of the Army, the Army Corps of Engineers, USAID, and the Departments of State and Justice. To verify the information provided, we requested copies of each contract action issued as of September 30, 2003, and corrected the information provided as appropriate. Agency officials could not provide the contract files for a limited number of small-dollar contracts awarded during the early stages of the reconstruction effort. To determine the amount obligated for reconstruction, we primarily used the obligation data recorded in the contracts. We also reviewed the data maintained by the agencies' budget offices and information reflected in the Office of Management and Budget's (OMB) quarterly status reports. To obtain information on contract activities since September 2003, we interviewed CPA and agency officials, attended industry day conferences, and reviewed solicitations and other relevant agency documents.

To determine whether agencies had complied with applicable laws and regulations governing competition when awarding contracts and issuing task orders, we reviewed the requirements of the Competition in Contracting Act (CICA) of 1984 and other relevant laws and regulations. We judgmentally selected 25 contract actions, consisting of 14 new contracts awarded using other than full and open competition and 11 task orders issued under existing contracts. These 25 contract actions represented about 97 percent of the total dollars obligated for reconstruction through September 30, 2003. New contracts accounted for nearly 80 percent of this spending.

[1] For example, we testified on efforts to identify and recover assets of the former regime and return them to the Iraqi people. See *Recovering Iraq's Assets: Preliminary Observations on U.S. Efforts and Challenges*, GAO-04-579T (Washington, D.C.: Mar. 18, 2004).

We selected the 25 contracts or task orders based on various factors. We focused on high-dollar value contracts and task orders, and on contracts awarded using other than full and open competitive procedures. We also considered whether audits by the DOD or USAID Inspectors General were under way. Overall, the 25 contracts or task orders consisted of the following:

- the largest contract awarded and the 4 largest task orders, by dollar value, issued to support CPA operations;
- 9 contracts awarded and 1 task order issued by USAID, as well as 1 task order issued under an Air Force contract to provide logistical support for USAID-managed efforts;
- 2 contracts awarded and 4 task orders issued by the Army Corps of Engineers and the Army Field Support Command to help restore Iraq's oil or electrical infrastructure;
- 1 contract awarded and 1 task order issued by the Army to train or equip the New Iraqi Army; and
- 1 contract awarded by the Department of State to support Iraqi law enforcement efforts.

For new contract awards, we determined whether agency officials followed appropriate procedures in using other than full and open competition and assessed the agency's justification for its contracting approach. For task orders issued under existing contracts, we determined whether the task orders were within the scope of the existing contracts, and if not, whether the agencies had followed proper procedures to add the work. To do so, we obtained the contracts or task orders and associated modifications, justification and approval documentation, negotiation memoranda, audit reports, and other relevant documents. We discussed the award and issuance process with agency procurement personnel, including contracting officers, program managers, and, in some cases, agency counsel. We also reviewed audit reports on various procurement issues prepared by the DOD and USAID Inspectors General and the Defense Contract Audit Agency (DCAA).

To assess agencies' initial contract administration efforts, we interviewed procurement officials to determine how contract administration for their contracts was initially staffed, including the use of support contracts to assist in administering the contracts. We obtained information on plans for reaching agreement on key contract terms and conditions. We also reviewed the 25 contracts or task orders to determine whether they included provisions related to contract administration, such as quality assurance plans, requirements for monthly status reports, and

subcontractor management plans. As part of our monitoring of reconstruction activities, we conducted field visits in October 2003 in Baghdad and in other areas in Iraq, including Al Hillal and Al Basrah. During these visits, we held discussions with officials and visited project sites, including power plants, oil wells, oil processing facilities, water and sewage systems, schools, and many other reconstruction activities. During these visits, we observed the challenges faced in carrying out reconstruction efforts, including the hostile security environment, poor communications, and unsettled working conditions.

Appendix I lists the agencies visited during our review. We conducted our work between May 2003 and April 2004 in accordance with generally accepted government auditing standards.

Results in Brief

Agencies generally complied with applicable laws and regulations governing competition when using sole-source or limited competition approaches to award new contracts for reconstruction. They did not always comply with competition requirements, however, in issuing task orders under existing contracts. For new contracts, the law generally requires the use of full and open competition, where all responsible prospective contractors are allowed to compete, but permits sole-source or limited competition awards in specified circumstances, such as when only one source is available or to meet urgent requirements. All of the 14 new contracts we examined were awarded without full and open competition. Each of these contracts, however, involved circumstances that the law recognizes as permitting other than full and open competition, and agencies generally justified the use of sole-source or limited competition awards in accordance with legal requirements. For example, the Army Corps of Engineers properly awarded a sole-source contract for rebuilding Iraq's oil infrastructure to the only contractor DOD had determined was in a position to provide the services within the required time frame given classified prewar planning requirements. The Army Corps of Engineers documented the rationale in a written justification and had the justification approved by the appropriate official. Similarly, USAID properly awarded seven contracts using limited competition procedures. In one instance, however, the Department of State justified and approved the use of limited competition by citing a unique authority that may not be a recognized exception to the competition requirements, even though a recognized exception to competition requirements was available.

Of the 11 task orders agencies issued under existing contracts, 2 were within the scope of the underlying contracts and 7, in whole or part, were

not within scope; we have reservations about whether 2 others were within scope. Task orders are deemed by law to satisfy competition requirements if they are within the scope, period of performance, and maximum value of a properly awarded underlying contract. Although the maximum value and period of performance for a contract are almost always objectively ascertainable, decisions concerning the scope of a contract involve subjective analysis and judgment. Contracting officers must decide whether the work described in a task order fits within the work generally described in the contract. In several instances, contracting officers issued task orders for work that was not within the scope of the underlying contracts. For example, to obtain media development services and various subject matter experts, the Defense Contracting Command-Washington (DCC-W) placed two orders using a management improvement contract awarded under GSA's federal supply schedule program. But the two orders, both placed with the same company, did not involve management improvement activities. The out-of-scope work under these and other orders should have been awarded using competitive procedures or, because of the exigent circumstances involved, supported by a justification for other than full and open competition in accordance with legal requirements. To ensure that task orders issued to rebuild Iraq comply with applicable requirements, we are making several recommendations to the Secretary of the Army to review out-of-scope task orders to address outstanding issues and take appropriate actions, as necessary.

The agencies encountered various contract administration challenges during the early stages of the reconstruction effort, stemming in part from inadequate staffing, lack of clearly defined roles and responsibilities, changing requirements, and security constraints. While some of these issues have been addressed, staffing, security, and defining key terms and conditions of the contracts remain major concerns. For example, USAID officials have found it necessary to augment mission staff with personnel on temporary assignment from other USAID missions, while the State Department is exploring options for reorganizing the bureau overseeing its contract to use resources more efficiently. In addition, the Army has nearly $1.8 billion worth of reconstruction work that either has been completed or is well under way, but the agency and the contractors have yet to agree on key terms and conditions, including a projected cost. Until contract terms are defined, contract cost control incentives are likely to be less effective and risks to the government remain. To promote effective cost control, we are recommending that the Secretary of Army definitize outstanding contract actions as soon as possible. To improve the delivery of acquisition support in future operations, we are also recommending that

the Secretary of Defense, in consultation with the Administrator, USAID, evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate staff and other resources can be made available in a timely manner.

For future reconstruction efforts in Iraq, the CPA has established a program management office to provide better coordination and management over activities to be conducted during the next year. To implement this approach, in March 2004, DOD, on behalf of the CPA, awarded 17 contracts for overall program support and construction management services in such areas as electricity and water. Other agencies, such as USAID, will continue to award and manage contracts within their areas of responsibilities.

We received written comments on a draft of this report from DOD, the Department of State, USAID, and GSA. DOD generally concurred with our recommendations and outlined a number of corrective actions it is taking. The Department of State disagreed with our assessment that the authority it cited to limit competition may not be a recognized exception to competition requirements. State did not provide us, however, with a persuasive basis to conclude that the authority is a recognized exception. USAID concurred with the draft as written. GSA noted it was working with DOD and other federal agencies to ensure that their contracting officers are fully trained on the proper use of the federal supply schedule program. The agencies' comments appear in appendixes III, IV, V, and VI.

Background

During the latter part of 2002, as diplomatic efforts to convince the former Iraqi regime to comply with United Nations Security Council resolutions continued, discussions took place within the administration about the need to rebuild Iraq should combat operations become necessary. In October 2002, OMB established a senior interagency team to establish a baseline assessment of conditions in Iraq and to develop relief and reconstruction plans. According to an OMB official, the team developed plans for immediate relief operations and longer-term reconstruction in 10 sectors: health, education, water and sanitation, electricity, shelter, transportation, governance and the rule of law, agriculture and rural development, telecommunications, and economic and financial policy.

Though high-level planning continued through the fall of 2002, most of the agencies involved in the planning were not requested to initiate procurement actions for the rebuilding efforts until early in 2003. Once assigned the responsibilities, agency procurement personnel were

instructed to be ready to award the initial contracts within a relatively short time period, often within weeks. During 2003, several agencies played a role in awarding or managing reconstruction contracts, most notably USAID and the Army Corps of Engineers. Various agencies awarded contracts on behalf of the CPA and its predecessor organization, the Office of Reconstruction and Humanitarian Assistance. Table 1 shows the principal areas of responsibility assigned to the CPA and other agencies.

Table 1: Organizations and Principal Areas of Responsibility for Rebuilding Iraq

Organization	Primary responsibilities
CPA	Acts as an interim government and oversees, directs, coordinates, and approves rebuilding efforts. The CPA Administrator reports to the President through the Secretary of Defense.
Department of the Army	DOD executive agent for the CPA. Provides administrative, logistics, and contracting support for the CPA and training for the New Iraqi Army.
Army Corps of Engineers	Iraqi oil and electrical infrastructures, CPA administrative support, and technical assistance on USAID capital construction contracts.
USAID	Nonoil-related capital construction, seaport and airport administration, local governance, economic development, education, and public health.
Department of State	Civilian law enforcement, judicial, and corrections support.
Department of Justice	Civilian law enforcement training and support.

Source: GAO's analysis of agency data.

As of September 30, 2003, the agencies had obligated nearly $3.7 billion on 100 contracts or task orders for reconstruction efforts (see table 2). These obligations came from various funding sources, including U.S. appropriated funds and Iraqi assets.[2] The Army Corps of Engineers and USAID together obligated about $3.2 billion, or nearly 86 percent of this total. The majority of these funds were used to rebuild Iraq's oil infrastructure and to fund other capital-improvement projects, such as repairing schools, hospitals, and bridges. This spending reflects a relatively small part of the total amount that may be required to rebuild

[2] The Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. No. 108-11, Apr. 16, 2003) established several funds that could be used to support rebuilding efforts. Agencies also used other appropriation accounts to support certain rebuilding efforts.

Iraq, with estimates ranging from $50 billion to $100 billion.[3] Appendix II lists the 100 reconstruction contracts and task orders we identified and the associated obligations as of September 30, 2003.[4]

Table 2: Contract Activity by Organization, as of September 30, 2003

Dollars in millions

Organization	Contracts awarded or task orders issued	Amount obligated	Percent of total obligations
CPA[a]			
Army Field Support Command	1	$204.1	6
Defense Contracting Command-Washington	24	127.9	3
Army Corps of Engineers	3	28.5	<1
Defense Information Systems Agency	4	27.4	<1
Defense Contract Management Agency	7	16.9	<1
Army Contracting Agency	1	11.0	<1
Washington Headquarters Services	34	1.8	<1
Department of the Army			
Army Corps of Engineers	8	1,694.6	46
Army Field Support Command	3	69.4	2
Army Contracting Agency	1	48.1	1
USAID			
USAID	11	1,335.8	36
Department of the Air Force[b]	1	91.5	2
Department of State	1	19.6	<1
Department of Justice	1	1.7	<1
Total	**100**	**$3,678.3**	**100**

Source: GAO's analysis of data provided by DOD, the CPA, USAID, and the Departments of State and Justice.

Note: Figures do not total to 100 percent.

[a]Reflects contracts awarded or task orders issued on behalf of the CPA by the listed agencies.

[b]Reflects an Air Force task order issued for logistical support on behalf of USAID.

[3] Congressional Budget Office, *Paying for Iraq's Reconstruction* (January 2004).

[4] Appendix II may understate the total number of reconstruction contracts and task orders, as agency officials were unable to provide information on a limited number of small-dollar contracts awarded during the early stages of the reconstruction effort.

In November 2003, Congress appropriated an additional $18.4 billion for rebuilding activities.[5] The CPA's projected uses for the funds reflect a continued emphasis on rebuilding Iraq's infrastructure and on providing improved security and law enforcement capabilities (see table 3). In appropriating these funds, Congress required that the CPA Administrator or the head of a federal agency notify Congress no later than 7 calendar days before awarding a contract, with these funds, valued at $5 million or more for reconstruction using other than full and open competition procedures.[6]

Table 3: Projected Uses of Fiscal Year 2004 Appropriations for Iraq Reconstruction Efforts

Dollars in billions

Purpose	Amount
Electric sector	$ 5.6
Water resources and sanitation	4.3
Security and law enforcement	3.2
Oil infrastructure	1.7
Justice, public safety, and civil society	1.5
Health care	0.8
Transportation/telecommunications	0.5
Roads, bridges, and construction	0.4
Education, refugees, and human rights	0.3
Private-sector development	0.2
Total	**$18.4**

Source: OMB.

Note: Figures may not total due to rounding.

[5] Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004. (Pub. L. No. 108-106, Nov. 6, 2003.) Congress appropriated $18.649 billion for Iraq relief and reconstruction; however, of this amount, $210 million was set aside for assistance to Jordan, Liberia, and Sudan. Additionally, the Consolidated Appropriations Act, 2004 (Pub. L. No. 108-199, Jan. 23, 2004) allows another $100 million of that amount to be used for assistance to Turkey and $30 million for the Middle East Partnership Initiative.

[6] Included within the information to be provided is the justification for using other than full and open competitive procedures, a brief description of the contract's scope, the amount of the contract, a discussion of how the contracting agency identified and solicited offers from contractors, and a list of the contractors solicited.

U.S.-funded reconstruction efforts were undertaken through numerous contracts awarded by various U.S. agencies. CICA generally requires that federal contracts be awarded on the basis of full and open competition—that is, all responsible prospective contractors must be afforded the opportunity to compete.[7] The process is intended to permit the government to rely on competitive market forces to obtain needed goods and services at fair and reasonable prices. Within this overall framework, agencies can use various procurement approaches to obtain goods and services. Each approach, as listed in table 4, involves different requirements with which agencies must comply. In some cases, agency officials may determine that a contractor working under an existing contract may be able to provide the required goods or services through issuance of a task order, thus obviating the need to award a new contract. Before awarding a task order under an existing contract, however, the agency must determine that the work to be added is within the scope of that contract (i.e., that the work fits within the statement of work, performance period, and maximum value of the existing contract). In making this determination, the contracting officer must decide whether the new work is encompassed by the existing contract's statement of work and the original competition for that contract.

[7] CICA, as enacted in 10 U.S.C. § 2304(a)(1) (2000) (applicable to DOD) and codified at 41 U.S.C. § 253(a)(1) (2000) (applicable to other executive agencies discussed in this report); 41 U.S.C. § 403(6) (2000) (definition of "full and open competition"). CICA's competition requirements are implemented in the Federal Acquisition Regulation (FAR), 48 C.F.R. part 6 (2003) and agency supplements.

Table 4: Principal Procurement Approaches Used to Rebuild Iraq

Procurement approach	Key requirements
Award new contract	Contract awards generally must comply with CICA's requirement for full and open competition. When not providing for such competition, the contracting officer must, among other things, justify the reasons for using the alternative authorized procedure, and, if applicable, solicit offers from as many potential sources as is practicable under the circumstances and consider actions to facilitate competition for any subsequent acquisition of the supplies or services required. The contracting officer's justification for the use of other than full and open competitive procedures must be approved at the required level within the agency, depending on the value of the contract and the competition exception cited.
Use existing indefinite-delivery/indefinite-quantity contract	Indefinite-delivery/indefinite-quantity contracts establish the basic terms of the contracts in advance, enabling agency personnel to issue subsequent task or delivery orders for specific services or goods expeditiously. Orders must be within the contract's scope, issued within the period of performance, and be within the contract's maximum value. Out-of-scope work must either be competed or be justified by the contracting officer under the same rules that apply to noncompetitive awards of new contracts. If the basic contract is awarded to multiple firms, then each generally must be given a "fair opportunity to be considered" for each order. Special competition requirements apply to orders for services by or on behalf of DOD.
Use federal supply schedule contract	GSA's federal supply schedule program offers a wide variety of commercial goods and services through the use of various schedule contracts. Because these contracts are deemed to be competitively awarded, contracting officers generally may place orders under these contracts without seeking further competition or further determining whether the listed prices are fair and reasonable. For service contracts that are valued at more than $2,500 and require a statement of work, GSA established special ordering procedures that require agency personnel to solicit quotes from at least three contractors and evaluate the mix and price of the labor categories being offered, among other things. Special competition requirements apply to orders for services by or on behalf of DOD.

Source: GAO's analysis.

New Contract Awards Generally Complied with Competition Requirements, but Task Orders Were Less Compliant

Agencies generally complied with applicable laws and regulations governing competition when using sole-source or limited competition approaches to award the initial reconstruction contracts we reviewed. The exigent circumstances that existed immediately prior to, during, and following the war led agency officials to conclude that the use of full and open competitive procedures for new contracts would not be feasible. We found these decisions to be within the authority provided by law. We found several instances, however, in which agencies had issued task orders for work that was outside the scope of existing contracts. Such task orders do not satisfy legal requirements for competition. In these cases, the out-of-scope work should have been awarded using competitive procedures or supported with a Justification and Approval for other than full and open competition in accordance with legal requirements. Given the urgent need for reconstruction efforts, the authorities under the competition laws for using noncompetitive procedures provided agencies

ample latitude to justify other than full and open competition to satisfy their needs.

Agencies Properly Justified Use of Other Than Full and Open Competition in Awarding New Contracts

The agencies responsible for rebuilding Iraq generally complied with applicable requirements governing competition when awarding new contracts. While CICA requires that federal contracts be awarded on the basis of full and open competition, the law and implementing regulations recognize that there may be circumstances under which full and open competition would be impracticable, such as when contracts need to be awarded quickly to respond to unforeseen and urgent needs or when there is only one source for the required product or service.[8] In such cases, agencies are given authority by law to award contracts under limited competition or on a sole-source basis, provided that the proposed actions are appropriately justified and approved.[9]

We reviewed 14 new contracts that were awarded using other than full and open competition: a total of 5 sole-source contracts awarded by the Army Corps of Engineers, the Army Field Support Command, and USAID and 9 limited competition contracts awarded by the Department of State, the Army Contracting Agency, and USAID (see table 5). Because of the limited time available to plan and commence reconstruction efforts, agency officials concluded that the use of full and open competitive procedures in awarding new contracts would not be feasible. For 13 of these new contracts, agency officials adequately justified their decisions and complied with the statutory and regulatory competition requirements. In the remaining case, the Department of State justified and approved the use of limited competition under a unique authority that, in our opinion, may not be a recognized exception to the competition requirements.[10] State

[8] These exceptions are listed in 10 U.S.C. § 2304(c) and 41 U.S.C. § 253(c). Agencies may have other authority available that permits them to justify using other than full and open competition in appropriate circumstances. For example, table 5 describes the authority USAID used to conduct its limited competitions.

[9] 10 U.S.C. § 2304(f) and 41 U.S.C. § 253(f) establish the required approval levels and the required contents of the justification. Lack of advance planning is prohibited as a basis for using other than competitive procedures.

[10] State relied on section 481(a) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2291(a)(4) (2000), which reads: "Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, or for other anticrime purposes."

took steps to obtain competition, however, by inviting offers from four firms. State could have justified and approved its limited competition under recognized exceptions to the competition requirements.

Table 5: Agency Compliance with Requirements for Awarding New Contracts Using Other Than Full and Open Competition

Dollars in millions

Contract(s) objectives	Agency action	Our assessment	Obligations as of Sept. 2003
Army Corps of Engineers			
Repair and maintain operations of Iraq's oil infrastructure	Awarded sole-source contract citing authorized CICA exception for only one responsible source available. According to DOD, there was only one source with the capability to perform emergency repairs to the oil infrastructure given (1) the classified nature of the planning efforts, (2) the contractor's role in those efforts, and (3) the imminent commencement of hostilities. DOD recognized as early as November 2002 that the contractor, given its role in preparing a contingency support plan, would be in the best position to execute the plan for emergency repair and continuing the operations of Iraq's oil infrastructure. The contracting officer's written justification outlined the rationale for the decision and other factors, and it was approved by the Army's senior procurement executive.	Justification and Approval complied with applicable legal standards.[a]	$1,390.1
Interim transitional civil administration headquarters	Awarded sole-source contract citing CICA's unusual and compelling urgency exception.	Justification and Approval complied with applicable legal standards.	$19.7
USAID			
Capital construction, transition support, local governance, economic development, education, public health, personnel support, and airport and seaport administration	Awarded seven contracts under limited competition and two sole-source contracts citing the foreign aid program impairment exception to the competition requirements provided for under the Federal Property and Administrative Services Act.[b] The waiver, signed on January 16, 2003, instructed procurement officials to seek offers from as many sources as was practicable. Excluding the two sole-source awards, USAID solicited between 2 and 10 potential offerors for each contract.	Justifications and Approvals complied with applicable legal standards.[c]	$1,326.3

Dollars in millions

Contract(s) objectives	Agency action	Our assessment	Obligations as of Sept. 2003
Army Contracting Agency			
Training program for New Iraqi Army	Awarded contract under limited competition citing CICA's unusual and compelling urgency exception. In this case, the CPA identified a requirement for a program on May 31, 2003, with the objective of having a program in place by July 1. The Army received five proposals, and following an evaluation, awarded a contract on June 25.	Justification and Approval complied with applicable legal standards.	$48.1
Army Field Support Command			
Prepositioning fire-fighting equipment	Awarded sole-source letter contract (numbered as a task order under the Army's existing Logistics Civil Augmentation Program (LOGCAP) contract) citing CICA's exception for only one responsible source available.	Justification and Approval complied with applicable legal standards.[a]	$37.5
Department of State			
Law enforcement, judicial, and corrections support	Agency limited competition by citing a provision of the Foreign Assistance Act of 1961 that authorizes the President to furnish foreign assistance on such terms and conditions as he may determine for international narcotics control or for other anticrime purposes "notwithstanding any other provision of law."	Authority used by State may not be a recognized exception to competition requirements, although circumstances would have supported State's use of a recognized exception to the requirements.	$19.6

Source: GAO's analysis of agency data.

[a]Because the Army cited national security considerations in deciding not to publicize its requirements, it was required under the Army FAR Supplement to cite national security as the basis for using other than full and open competition and request offers from as many potential sources as practicable under the circumstances. However, since the Army reasonably determined in both cases that there was only one available, responsible source, there was no substantive effect from the choice of authorized competition exception.

[b]The Federal Property and Administrative Services Act permitted waiver of competitive contracting procedures that would impair foreign aid programs. This authority, previously codified at 40 U.S.C. § 474 (2000), was recently recodified and enacted into positive law, 40 U.S.C. § 113(e), by Pub. L. No. 107-217, § 1, 116 Stat. 1062, 1066 (2002).

[c]The USAID Inspector General also evaluated USAID's procurement processes. While the Inspector General found that USAID had generally complied with applicable federal regulations, the Inspector General identified a number of issues, including inadequate needs assessments, absence of a clear methodology for and documentation of market research decisions in identifying prospective contractors, need to obtain general counsel's advice on certain procurement matters, and lack of notification and timely debriefings of unsuccessful offerors. USAID agreed to address the issues raised by the Inspector General.

Agencies Did Not Always Satisfy Competition Requirements When Issuing Task Orders under Existing Contracts

We found a lesser degree of compliance when agencies issued task orders under existing contracts. When issuing a task order under an existing contract, the competition law does not require competition beyond that obtained for the initial contract award,[11] provided the task order does not increase the scope of the work, period of performance, or maximum value of the contract under which the order is issued.[12] The scope, period, or maximum value may be increased only by modification of the contract,[13] and competitive procedures are required to be used for any such increase unless an authorized exception applies.[14]

Determining whether work is within the scope of an existing task order contract is primarily an issue of contract interpretation and judgment by the contracting officer (in contrast to the contract's maximum value and performance period, which are explicitly stated in the contract). Other than the basic requirement that task orders be within scope, there are no statutory or regulatory criteria or procedures that guide a contracting officer in making this determination. Instead, guiding principles for scope of contract determinations are established in case law, such as bid protest decisions of the Comptroller General.[15] These decisions establish that the key factor is whether there is a material difference between the new work and the contract that was originally awarded—in other words, whether

[11] 10 U.S.C. § 2304c(a)(2) and 41 U.S.C. § 253j(a)(2) (2000). If more than one contractor was awarded a contract, however, then all the contractors are required to be provided a fair opportunity to be considered for the task order. 10 U.S.C. § 2304c(b) and 41 U.S.C. § 253j(b).

[12] 10 U.S.C. § 2304a(e) and 41 U.S.C. § 253h(e) (2000).

[13] 10 U.S.C. § 2304a(e) and 41 U.S.C. § 253h(e).

[14] This requirement for competition for out-of-scope modifications is explicitly stated for task order contracts for advisory and assistance services. 10 U.S.C. § 2304b(f) and 41 U.S.C. § 253i(f) (2000). For other types of task and delivery order contracts, the requirement for competition for out-of-scope modifications is based on case law such as bid protest decisions of the Comptroller General of the United States. *See*, *for example*, *Makro Janitorial Srvs., Inc.*, B-282690, Aug. 18, 1999, 99-2 CPD ¶ 39 at 2; Anteon Corp., B-293523, B-293523.2, Mar. 29, 2004, 2004 CPD ¶___at 4-5.

[15] Although we used such bid protest decisions in establishing the criteria for our review of the task orders issued for Iraq's reconstruction, our review is not related in any way to the statutory bid protest function of the Comptroller General under CICA.

new work is something potential offerors reasonably could have anticipated in the competition for the underlying contract.[16]

Of the 11 task orders we reviewed, 2 were within the scope of the underlying contract and 7 were, in whole or part, not within scope; we have reservations concerning whether 2 others were within scope (see table 6).

Table 6: Agency Compliance with Requirements for Issuing Task Orders on Existing Contracts

Dollars in millions

Task order objectives	Our assessment	Obligations as of Sept. 2003
Defense Information Systems Agency		
Provide internal communications and management support to the CPA	No issues identified. Task order is within the scope of the contract.	$22.0
USAID		
Provide monitoring and evaluation services for USAID activities in Iraq	No issues identified. Task order is within the scope of the contract.	$5.5
DCC-W		
Establish an Iraqi media capability, including print, television, and radio	Work is outside the scope of the existing contract to provide management consulting services to assist in improving federal agency operations.	$82.4
Recruit and provide logistical support for subject matter experts to assist the Iraqi Reconstruction and Development Council	Work is outside the scope of the existing contract to provide management consulting services to assist in improving federal agency operations.	$24.8
Air Force Contract Augmentation Program		
Provide logistical support and equipment to support USAID mission in Baghdad and at other sites in Iraq	Work is, in part, outside the scope of the contract, which is primarily to provide commanders an ability to augment or relieve base operating support functions for sustaining deployed operating forces. The Air Force is issuing new guidance to ensure orders supporting USAID are within the scope of the contract.	$91.5
Army Field Support Command		
Contingency support planning for restoring the Iraqi oil infrastructure	Work was outside the scope of the existing LOGCAP contract, which provides for planning in support of requirements designated to be met via LOGCAP support. At the time the order was issued, DOD recognized that restoration of the oil infrastructure was beyond the scope of the LOGCAP contract. In our opinion, planning for such efforts was, correspondingly, also outside the scope. DOD nevertheless determined the planning was within scope.	$1.9

[16] *Floro & Assocs.*, B-285451.3; B-285451.4, Oct. 25, 2000, 2000 CPD ¶ 172 at 4; Anteon Corp., supra, at 5.

Dollars in millions

Task order objectives	Our assessment	Obligations as of Sept. 2003
Three task orders issued to repair and restore the Iraqi electrical infrastructure	Work is outside the scope of the three existing contracts because it causes the maximum value ($100 million) of each underlying contract to be exceeded. The Army Corps of Engineers used limited competition in awarding the three underlying contracts. Also, the subsequent task orders were not competed among the three contractors as required; rather, the work was assigned to each contractor based on its existing capabilities within geographic location, among other factors. We found that the contracting officer had not prepared a justification for these noncompetitive task orders. After we raised this issue with agency officials, the contracting officer prepared the required documentation in April 2004. Although CICA and the FAR permit after-the-fact Justification and Approval of noncompetitive awards based on unusual and compelling urgency, neither the justification for limiting competition in the award of the three underlying contracts, nor the justification for increasing their maximum value, has been approved by the Army—almost a year after award and more than 6 months after the justification was submitted by the Army Corps of Engineers.	$280.0
Army Field Support Command		
CPA logistical support	Work may be outside of the scope of the existing LOGCAP contract, which provides for civilian contractor augmentation of combat service support and combat support for Army and other entities in wartime and other specified operations.	$204.1
New Iraqi Army training logistical support	Work may be outside of the scope of the existing LOGCAP contract, which provides for civilian contractor augmentation of combat service support and combat support for Army and other entities in wartime and other specified operations.	$30.0

Source: GAO's analysis of agency data.

The seven instances in which agencies issued task orders for work that was, in whole or in part, outside the scope of an existing contract are described on the following pages. In each of these cases, the out-of-scope work should have been awarded using competitive procedures or supported with a Justification and Approval for other than full and open competition in accordance with legal requirements. Given the urgent need for reconstruction efforts, the authorities under the competition laws for using noncompetitive procedures provided agencies ample latitude to justify other than full and open competition to satisfy their needs.

- DCC-W[17] improperly used a GSA schedule contract to issue two task orders with a combined value of over $107 million for work that was outside the scope of the schedule contract.

 Under GSA's federal supply schedule program, GSA negotiates contracts with multiple firms for various commercial goods and services and makes those contracts available for other agencies to use. In March 2003, DCC-W placed two orders with Science Applications International Corporation (SAIC) under SAIC's schedule contract. One order involved development of a news media capability—including radio and television programming and broadcasting—in Iraq. The other required SAIC to recruit people identified by DOD as subject matter experts, enter into subcontracts with them, and provide them with travel and logistical support within the United States and Iraq. The schedule contract, however, was for management, organizational, and business improvement services for federal agencies. In our view, the statements of work for both task orders were outside the scope of the schedule contract, which typically would encompass work such as consultation, facilitation, and survey services. The period of performance for the media services task order has expired, and the task order for subject matter experts was extended through April 30, 2004.[18]

- Over $91 million was obligated under an Air Force Contract Augmentation Program contract for delivery of commodities to USAID for reconstruction activities and logistical support for USAID's mission in Iraq. The contract is intended primarily to provide base-level logistical and operational support for Air Force deployments. Under an

[17] DCC-W, a division within the office of the Administrative Assistant to the Secretary of the Army, provides administrative support, including contracting support, to DOD components located in the National Capital Region.

[18] In March 2004, the DOD Inspector General reported that a review of 24 contract actions awarded by DCC-W on behalf of the CPA (including the two task orders we reviewed) revealed that DCC-W circumvented contracting rules—including improperly using schedule contracts and improperly contracting for personal services. The Inspector General attributed this condition to the need to quickly award contracts and to DOD's failure to plan for the acquisition support the CPA needed to perform its mission. DCC-W officials reported that they have and will continue to provide additional guidance and training on the use of the schedules program to its personnel. See *Acquisition: Contracts Awarded for the Coalition Provisional Authority by the Defense Contracting Command–Washington.* (Report. No. D-2004-057, Office of the Inspector General, Department of Defense. Arlington, Va., Mar. 18, 2004).

interagency agreement,[19] the Air Force used the contract to provide USAID a variety of support tasks related to storage, inventory control and management, and other logistical and operational support. Some of these funds, however, had been obligated for services such as building materials for Iraqi schools and planning for fixing electrical power generation for Baghdad water treatment plants. Because these types of services—though related to USAID's foreign assistance mission—are not related to support for a deployment, they appear to be outside the scope of the contract. When we brought this issue to the attention of Air Force officials, they agreed that some of the work was outside the scope of the contract, and they are issuing guidance to ensure that logistical support for USAID does not go beyond the scope of the contract.

- The Army Field Support Command issued a $1.9 million task order for contingency planning for the Iraqi oil infrastructure mission under its LOGCAP contract with Kellogg Brown & Root. The task order was not within the scope of that contract.[20] This task order, issued in November 2002, required the contractor to develop a plan to repair and restore Iraq's oil infrastructure should Iraqi forces damage or destroy it. Because the contractor was knowledgeable about the U.S. Central Command's planning for conducting military operations, DOD officials determined the contractor was uniquely positioned to develop the contingency support plan. DOD determined that planning for the missions was within the scope of the LOGCAP contract, but it also determined that the actual execution of the Iraq oil mission, including prepositioning of fire-fighting equipment and teams, was beyond its scope.

[19] The interagency agreement is based on authorization contained in the Foreign Assistance Act. Section 491(b) of the Foreign Assistance Act authorizes the President, "notwithstanding any other provision of this or any other Act," to furnish foreign assistance "on such terms and conditions as he may determine, for international disaster relief and rehabilitation," while section 632(b) of the Act authorizes, for carrying out foreign assistance functions, the utilization of the services (including defense services) and facilities of, or procurement of commodities and defense articles from, any U.S. agency.

[20] The LOGCAP contract, which was competitively awarded in 2001, requires the contractor to provide planning and a broad range of logistics services to the Army and other entities in wartime and other operations. The Army has used LOGCAP to support both military operations and reconstruction efforts in Iraq. We are reviewing DOD's use of the LOGCAP contract to support military operations under a separate review that will be completed later this year.

We agree with the DOD conclusion that repairing and continuing the operations of the Iraqi oil infrastructure are not within the scope of the contract. But unlike DOD, we conclude that preparation of the contingency support plan for this mission was beyond the scope of the contract. We read the LOGCAP statement of work as contemplating planning efforts for missions designated for possible contractor execution under the contract. Consequently, the Army Field Support Command should have prepared a written justification to authorize the work without competition. The resulting contingency plan was used as justification for subsequently awarding a sole-source contract to Kellogg Brown & Root for restoring the oil infrastructure, for which nearly $1.4 billion was obligated during fiscal year 2003. As noted in table 5, we found that the award of this contract generally complied with applicable legal standards.

- In March 2003, the Army Corps of Engineers conducted a limited competition resulting in multiple-award contracts with three firms—Washington International, Inc., Fluor Intercontinental, Inc., and Perini Corporation—for construction-related activities in the Central Command's area of responsibility. These contracts had a maximum value of $100 million each. In the latter part of August 2003, as efforts to restore electricity throughout Iraq lagged and amid concerns that the electrical shortages presented social unrest and security threats to the CPA and the military forces, the Central Command tasked the Army Corps of Engineers with taking steps to rebuild the electrical infrastructure as quickly as possible. In response, the Army Corps of Engineers issued task orders under each of these contracts causing them to exceed their maximum value.[21] Consequently, the orders are outside the scope of the underlying contracts.

 The Army Corps of Engineers prepared a justification for award of the underlying contracts in August 2003 and a subsequent justification in September 2003 to increase the maximum value of each contract from

[21] As of September 30, 2003, two of the three multiple-award contracts had exceeded their maximum value. In October 2003, the third contract also exceeded its maximum value.

$100 million to $500 million. Neither justification had been approved as of March 31, 2004. [22]

Finally, we note that section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. No. 107-107) requires that an order for services in excess of $100,000 issued under a multiple-award contact by or on behalf of a DOD agency be made on a competitive basis, unless a contracting officer justifies an exception in writing. The Army Corps of Engineers did not compete these task orders among the three multiple-award contractors. Rather, the agency and the contractors collectively decided to allocate the electrical infrastructure work based on geographical sectors and the capabilities of the contractors in the theater. We found that the contracting officer had not prepared a justification for these noncompetitive task orders. After we raised this issue with agency officials, the contracting officer prepared the required documentation in April 2004.

As described in table 6, we also have reservations about whether work ordered under two other Army task orders was within the scope of an underlying contract for combat support. These task orders were issued by the Army Field Support Command for the CPA's logistical support and for a base camp used in training the New Iraqi Army. In these, as in the other cases, the competition laws provided agencies ample latitude to justify using other than full and open competition to satisfy their needs.

Effective Contract Administration Remains a Key Challenge as Contracting Activity Increases

The need to award contracts and begin reconstruction efforts quickly—the factors that led agencies to use other than full and open competition—also contributed to initial contract administration challenges. Faced with uncertainty as to the full extent of the rebuilding effort, agencies often authorized contractors to begin work before key terms and conditions, including the statement of work to be performed and the projected cost for that work, were fully defined. Until agreement is reached, contract incentives to control costs are likely to be less effective. Staffing constraints and security concerns posed further challenges. Agencies have

[22] Under 10 U.S.C. § 2304(f)(2), a Justification and Approval for unusual and compelling urgency can be made after award. It has been a year since these contracts were awarded using limited competition and more than 6 months since the Corps requested approval from the Army's senior procurement executive for its limited competitive awards. The Army FAR Supplement requires the submission of such a post-award justification for approval within 30 working days of award.

made progress in addressing these issues, but there remains a backlog of contracts for which final agreement has not yet been reached. The CPA has created a new office to better manage and coordinate reconstruction efforts to be conducted over the next year.

Reaching Agreement on Key Contract Terms and Conditions

To meet urgent operational needs, as is the case in Iraq's reconstruction, agencies are permitted to authorize contractors to begin work before contracts or task orders have been definitized—that is, before key terms and conditions, including price, have been defined and agreed upon. While this approach allows agencies to initiate needed work quickly, it also can result in potentially significant additional costs and risks being imposed on the government. Agencies generally are required to definitize contractual actions within 180 days.[23]

For many of the contracts we reviewed, agencies authorized the contractors to begin work before terms were fully defined, and later reached final agreement on the scope and price of the work. There remain six DOD contracts or tasks orders, however, that had yet to be definitized as of March 2004, two involved work that had been completed more than a year earlier (see table 7). In total, nearly $1.8 billion had been obligated on these contracts or task orders as of September 30, 2003. These contracts or task orders had been awarded or issued by either the Army Corps of Engineers or the Army Field Support Command, and they include efforts to restore Iraq's oil and electrical infrastructures and to provide logistical support to the CPA.

[23] DOD may waive this requirement if the head of a DOD agency determines that the waiver is necessary for a contract to support a contingency operation or a humanitarian or peacekeeping operation. 10 U.S.C. § 2326(b)(4) (2000). No such waivers have been issued for the contracts we reviewed. The DOD requirements for undefinitized contract actions are in the Defense FAR Supplement at subpart 217.74. General requirements for all agencies are listed in FAR ¶16.603.

Table 7: Undefinitized Contract Actions as of March 2004

Dollars in millions

Agency	Purpose of contract/ task order	Work status as of March 31, 2004	Amount obligated as of Sept. 30, 2003
Army Corps of Engineers	Restore Iraq's oil infrastructure[a]	Ongoing	$1,390.0
Army Field Support Command	Provide support to the CPA	Ongoing	204.1
Army Corps of Engineers	Restore Iraq's electrical infrastructure	Ongoing	111.0
Army Field Support Command	Prepositioning of fire-fighting equipment and personnel	Completed March 2003	37.5
Army Field Support Command	Logistical support for personnel training for the New Iraqi Army	Ongoing	30.0
Army Field Support Command	Contingency plan for repairing and maintaining Iraq's oil infrastructure	Completed February 2003	1.9
Total			**$1,774.5**

Source: GAO's analysis of agency data.

[a]The Army Corps of Engineers awarded a single, sole-source indefinite-delivery/indefinite-quantity contract in March 2003. Under this contract, the Army Corps of Engineers had issued a total of 10 task orders as of March 30, 2004.

Agency officials attribute much of the delay in reaching agreement to continued growth in reconstruction efforts, which in turn have required numerous revisions to contract statements of work. The continued growth in requirements has resulted in an increase in both contractor costs and administrative workload on both contractor and agency procurement personnel. For example, the Army Corps of Engineers' contract to restore Iraq's oil infrastructure had individual task orders placed in March and May 2003 that were supposed to be definitized within 180 days.[24] Similarly, the Army Field Support Command has four task orders that have to be definitized. For example, the Army Field Support Command's task order to support the CPA was originally issued in March 2003, at an estimated cost of $858,503. As of September 30, the Army had obligated $204.1 million, and the statement of work had been modified a total of nine times. With each change, the contractor had to revise its cost and technical proposals, which also increased the workload for agency procurement personnel.

[24] This contract also includes a requirement to import fuel and other petroleum products into Iraq by the contractor, Kellogg Brown & Root. This task, which accounts for nearly 40 percent of the amount obligated on the contract as of September 2003, is the subject of ongoing reviews by the DOD Inspector General and DCAA. Because of these ongoing investigations, we did not evaluate the Army Corps of Engineers' oversight of this task order as part of this review.

The Army Field Support Command's revised schedule now calls for definitizing the task orders between June and October 2004.

Some of the delays reflect concerns over the adequacy of the contractors' proposals. For example, on the task order awarded to restore Iraq's electrical infrastructure, DCAA found a significant amount of proposed costs for which the contractor had not provided adequate support. Consequently, DCAA believed that the proposal was inadequate for the purposes of negotiating a fair and reasonable price. As of March 2004, negotiations between the contractor and the Army Corps of Engineers were still ongoing. To reduce risks, the Army Corps of Engineers has proposed paying the contractor only 85 percent of incurred costs until the contractor has adequately fulfilled its contract closeout responsibilities and acceptable business systems were in place.

The lack of timely contract definitization potentially can have a significant impact on total contract costs and related risks. Specifically, the major reconstruction efforts have used cost-reimbursement type contracts under which the government has agreed, subject to cost ceilings, to reimburse the contractor for all reasonable and allowable costs incurred in performing the work. In two of the largest contract actions—the contract to repair and maintain Iraq's oil infrastructure and the task order to support the CPA operations—the agencies have included an award fee provision under which the contractor can earn additional profit for meeting set targets in specified areas, such as cost control. As long as work continues to be performed under an undefinitized contract, however, the award fee incentive is likely to be less effective as a cost control tool since there is less work remaining to be accomplished and therefore less costs to be controlled by the contractor.[25] Given the high cost involved, particularly for the Iraq oil mission (over $2.5 billion), any reduction in cost control incentives potentially involves a significant contract cost risk.

[25] Other cost control mechanisms, such as the use of on-site government oversight personnel and auditors, as well as contractor cost accounting systems, could mitigate some of the cost risks to the government where definitization has been delayed. In addition, 10 U.S.C. § 2326(e) requires DOD to ensure that the profit allowed on an undefinitized contract for which the final price is negotiated after a substantial portion of the work is completed reflects the possible reduced cost risk to the contractor.

Providing Adequate Staff to Oversee Contracts

The lack of adequate staffing presented challenges to several agencies involved in reconstruction efforts and, at times, resulted in inadequate oversight of the contractors' activities. While agencies have taken actions, some of these early contract administration issues have yet to be fully resolved.

When the CPA's predecessor organization—Office of Reconstruction and Humanitarian Assistance---was established in mid-January 2003, it lacked an in-house contracting capability. It was not until February 27, 2003, that the Defense Contract Management Agency (DCMA) was asked to provide contracting support, including providing acquisition planning assistance and awarding and administering contracts. DOD officials noted that this tasking was unusual for DCMA, as it is typically responsible for administering, rather than awarding, contracts.

According to DOD officials, they found that the Office of Reconstruction and Humanitarian Assistance did not have an official responsible for authorizing contract actions and supervising contracting officers and others performing procurement-related duties. Further, DOD had authorized positions for only two contracting officers, who had yet to arrive. In addition, DCMA officials reported that the lack of an organizational structure led to contractors providing draft statements of work and cost estimates to the contracting officers so that contracts could be awarded more quickly. Normally, it is the government's responsibility to provide statements of work and develop independent cost estimates.

We found that there were not always sufficient in-country personnel to administer the contracts or task orders when they were initially awarded or issued. For example, for the federal supply schedule order issued in March 2003 by DCC-W to establish an Iraqi media capability, contractor personnel purchased property that was not part of the task order, including purchases that may not have been necessary or appropriate. According to DOD officials, contractor personnel purchased about $7 million in equipment and services not authorized under the contract, including a H-2 Hummer and a pickup truck, and then chartered a flight to have them delivered to Iraq. According to DCMA officials, these actions were primarily due to inadequate government property management to control or monitor the contractor's purchases. DCMA officials decided in May 2003 that it was in the best interests of the government to modify the approved equipment list, and include the materials purchased by the contractor.

The lack of in-country procurement staff proved problematic in another task order issued by the DCC-W to help recruit and support subject matter experts to assist the CPA and Iraqi ministries.[26] According to DCC-W and DCMA officials, there was initially neither contractor staff nor government officials to monitor the subject matter experts once they arrived in Iraq. DCMA officials indicated that some experts failed to report to duty or perform their responsibilities as expected or were no longer performing work under the task order.

Staffing concerns affected other agencies as well. For example, USAID recognized early that its resources were insufficient to administer and oversee the contracts it expected to award. Consequently, USAID arranged for the Army Corps of Engineers to provide oversight on its $1.0 billion infrastructure contract, arranged to have DCAA audit contractors, and made plans to augment its mission in Iraq. As of January 2004, however, a senior USAID procurement official stated that its Iraq mission remained understaffed to provide adequate contract oversight in Iraq.[27] USAID stated it has four full-time procurement staff that will be assigned to work in Iraq for 3 years. According to the senior official, this long-term commitment is essential to establishing the institutional knowledge needed to monitor and administer the contracts effectively. However, USAID indicated that given the workload, providing an appropriate degree of oversight would require at least seven additional personnel. Consequently, USAID found it necessary to augment the mission staff with personnel on temporary assignment from other USAID missions, who will serve between 1 and 3 months.

Similarly, State Department officials noted that the Bureau of International Narcotics and Law Enforcement Affairs—the bureau responsible for monitoring State's law enforcement support contract—is understaffed. For example, the department official responsible for contract oversight had multiple, time-consuming roles. This official currently serves as both the

[26] The DOD Inspector General's March 2004 report found that, overall, government personnel did not provide adequate surveillance on 13 of the 24 contracts or task orders awarded or issued on behalf of the CPA by DCC-W.

[27] We have previously reported that USAID's lack of personnel support has affected the agency's abilities to deliver reconstruction assistance. See *Major Management Challenges and Program Risks: U.S. Agency for International Development.* GAO-03-111 (Washington, D.C.: Jan. 1, 2003) *and Foreign Assistance: Disaster Recovery Program Addressed Intended Purposes, but USAID Needs Greater Flexibility to Improve Its Response Capability*, GAO-02-787 (Washington, D.C.: July 24, 2002).

program manager and the contracting officer's representative for the law enforcement support contract. As such, the official approves the contractor's monthly vouchers along with carrying out other detailed procurement tasks. The same official also had responsibilities for the department's efforts to recompete a $1.3 billion effort to provide worldwide law enforcement support and for law enforcement support efforts in Liberia and Haiti. To address the workload issue, the bureau has assigned two additional staff to assist in overseeing contract activities in Iraq and is exploring options for reorganizing the bureau to use resources more efficiently.

Providing adequate oversight on reconstruction efforts is challenging given the uncertain security environment and harsh working conditions. During site visits to Iraq in October 2003, we observed the considerable degree to which these factors were affecting reconstruction efforts. For example, travel outside secure compounds occurred only in convoys of armored vehicles with armed security forces. Flak jackets and helmets were required to be worn or, at a minimum, carried. Communications were generally difficult and unreliable. In addition, the living and working environment afforded individuals little privacy or time to rest. We observed that personnel generally worked 12 to 15 hour days and often shared cramped living and working quarters. In Al Hillah, for example, five USAID personnel shared two small offices with their security team.

Revised Approach Planned for Fiscal Year 2004 Reconstruction Efforts

To better coordinate and manage the $18.4 billion in reconstruction funding provided for fiscal year 2004, the CPA established a program management office that is responsible for infrastructure-related programs. The office, which includes representatives from USAID and the Army Corps of Engineers, is responsible for coordinating the efforts of the CPA, the Iraqi ministries, and other coalition partners.

The office's acquisition strategy reflects a plan to award

- 1 program management support contract to support the program management office and to oversee reconstruction efforts of specific sectors—electricity, oil, public works and water, security and justice, transportation and communications, and buildings and health;
- 6 program management contracts to coordinate reconstruction efforts specific to each sector; and
- 15 to 20 design-build contracts to execute specific tasks.

In March 2004, various DOD components, on behalf of the CPA, awarded 17 contracts—the program management support contract, the 6 sector-specific program management and the 10 design-build contracts. These contracts were awarded pursuant to a DOD decision to limit competition to firms from the United States, Iraq, coalition partners, and force contributing nations.[28]

In addition to these contracts, other agencies will continue to award and manage contracts for areas within their assigned area of responsibility. For example, in January 2004, USAID competitively awarded a $1.8 billion contract to enable further reconstruction efforts, while the Army Corps of Engineers competitively awarded two contracts with a combined value of $2.0 billion to further repair and rehabilitate Iraq's oil infrastructure. USAID announced its intent to solicit bids on at least seven new contracts. One of these contracts is intended to provide USAID with an enhanced capability to carry out data collection, performance monitoring, and evaluation of USAID's ongoing work in Iraq.

Conclusions

The United States, along with its coalition partners and various international organizations and donors, has undertaken an enormously complex, costly, and challenging effort to rebuild Iraq. At the early stages of these efforts, agency procurement officials were confronted with little advance warning on which to plan and execute competitive procurement actions, an urgent need to begin reconstruction efforts quickly, and uncertainty as to the magnitude of work required. Their actions, in large part, reflected proper use of the flexibilities provided under procurement laws and regulations to award new contracts using other than full and open competitive procedures.

With respect to several task orders issued under existing contracts, however, some agency officials overstepped the latitude provided by competition laws by ordering work outside the scope of the underlying contracts. This work should have been separately competed, or justified

[28] On December 5, 2003, the Deputy Secretary of Defense approved a determination and findings under the public interest exception to the competition requirements that eligibility for 26 contracts to be awarded by DOD on behalf of the CPA would be limited to firms from the United States, Iraq, coalition partners, and force contributing nations. The Secretary of Defense is authorized to use this exception only on a non-delegable basis. 10 U.S.C. 2304(c)(7), (d)(2); FAR 6.302-7(c)(1). Further, the Secretary's determination and finding to use the exception cannot be made on a class basis. FAR 6.302-7(c)(4).

and approved at the required official level for performance by the existing contractor. Given the war in Iraq, the urgent need for reconstruction efforts, and the latitude allowed by the competition law, these task orders reasonably could have been supported by justifications for other than full and open competition. In some cases, such as the task order for the Iraqi media capability, the work has been completed so there is no practical remedy available. In several other cases, however, the opportunity exists to bring task orders into compliance with requirements, as well as to ensure that future task orders are issued properly.

Providing effective contract administration and oversight remains challenging, in part due to the continued expansion of reconstruction efforts, the staffing constraints, and the need to operate in an unsecure and threatening environment. Indeed, the magnitude of work that remains undefinitized is symptomatic of changing requirements and the lack of sufficient agency and contractor resources. Nevertheless, timely definitization of outstanding contracts and task orders is needed to promote effective cost control. More broadly, these challenges suggest the need to assess the lessons learned from the contract award and administration processes in Iraq to identify ways to improve similar activities in the future.

It is too early to gauge whether the CPA approach to improving its ability to monitor and coordinate reconstruction efforts through the use of a new program management office and the planned award of various types of construction and management support contracts will be effective. However, recent congressional action requiring the CPA Administrator and heads of federal agencies to report on contracts awarded using other than full and open competition will provide more transparency and accountability in the award of new Iraq reconstruction contracts.

Recommendations for Executive Action

To ensure that task orders issued to rebuild Iraq comply with applicable requirements, and to maximize incentives for the contractors to ensure effective cost control, we recommend that the Secretary of the Army take the following four actions:

- Review the out-of-scope task orders for Iraqi media and subject matter experts issued by the Defense Contracting Command-Washington and take any necessary remedial actions.

- Ensure that any future task orders under the LOGCAP contract for Iraq reconstruction activities are within the scope of that contract.

- Address and resolve all outstanding issues in connection with the pending Justifications and Approvals for the contracts and related task orders used by the Army Corps of Engineers to restore Iraq's electricity infrastructure.

- Direct the Commanding General, Army Field Support Command, and the Commanding General and Chief of Engineers, U.S. Army Corps of Engineers, to definitize outstanding contracts and task orders as soon as possible.

To improve the delivery of acquisition support in future operations, we recommend that the Secretary of Defense, in consultation with the Administrator, U.S. Agency for International Development, evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate acquisition staff and other resources can be made available in a timely manner.

Agency Comments and Our Evaluation

DOD and the Department of State provided written comments on a draft of this report. Their comments are discussed below and are reprinted in appendixes III and IV. USAID concurred with the draft report as written. USAID's response is reprinted in appendix V. GSA also provided comments regarding its efforts to ensure that agencies properly use the federal supply schedule program. GSA's comments are reprinted in appendix VI.

DOD generally concurred with our recommendations. DOD noted that it is in the process of taking appropriate remedial actions on the task orders issued by the Defense Contracting Command-Washington, and is resolving outstanding issues related to the task orders issued by the Army Corps of Engineers to restore Iraq's electrical infrastructure. As part of its efforts to definitize contracts, DOD noted that the Army Field Support Command has, among other things, established firm dates for the submission of contractor proposals and to complete negotiations. DOD also noted that progress on these efforts is being reviewed by senior Command officials on at least a weekly basis. DOD did not indicate, however, what steps the Army Corps of Engineers is taking to definitize the actions for which they are responsible. As we noted in the report, the Army Corps of Engineers had two undefinitized contracts on which they had obligated more than $1.5 billion as of March 2004. Lastly, DOD reported that efforts are already underway to conduct a study to evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate staff and other resources can be made available.

DOD partially concurred with our recommendation to ensure that future task orders issued on the LOGCAP contract are within the scope of that contract. DOD noted that the LOGCAP contracting officer reviews each proposed scope of work and determines whether the action is within the scope of the contract, and obtains legal advice as needed. DOD also noted that the recommendation appeared to be based on only one action, namely the task order for contingency planning for the Iraq oil infrastructure mission. We also expressed concern, however, about whether the task orders to provide logistical support for the CPA and to the New Iraqi Army training program were within the scope of the underlying LOGCAP contract. Consequently, the steps taken by the contracting officer—while necessary and appropriate—may not be sufficient to ensure that work outside the scope of the LOGCAP contract is either competed or properly justified.

DOD provided two comments on our findings. First, DOD took exception to our observations on the manner by which the Deputy Secretary limited competition for contracts awarded in fiscal year 2004 to firms from the United States, Iraq, coalition partners and force contributing nations. DOD noted that the Deputy Secretary has broad authority from the Secretary to act on his behalf, which we do not dispute. We note, however, that the plain language of the law provides that authority to approve public interest exceptions may not be delegated.[29] While the Deputy Secretary may have broad authority to act on the Secretary's behalf, he was not authorized to do so in this case. Second, regarding our conclusion that the LOGCAP contingency planning order was not within the scope of the contract, DOD commented that our conclusion should be couched in terms of opinion. While legal analysis by its nature reflects opinion, we remain convinced of our conclusion and emphasize the need for more analytical rigor in the review of LOGCAP task orders.

The Department of State disagreed with our assessment that the authority it cited to limit competition may not be a recognized exception to competition requirements. The department believed that the authority it cited—section 481 of the Foreign Assistance Act of 1961, as amended—was used appropriately. The specific section of the Act cited by the department—section 481(a)(4)—speaks to the authority of the President to furnish assistance to a country or international organization, but does not provide relief from statutory competition requirements. In its

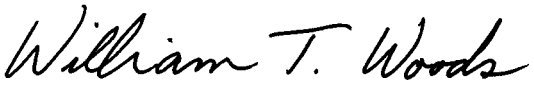
[29] 10 U.S. C. 2304(d)(2).

comments and in earlier discussions, State did not provide us with a persuasive basis to conclude that the authority is a recognized exception to the competition requirements. However, we did not need to resolve the issue because State appears to have maximized competition under the circumstances, and we believe State could have used other recognized exceptions, such as 40 U.S.C. §113(e), to meets its requirements. This authority permits the waiver of competitive contracting procedures when use of those procedures would impair foreign aid programs.

GSA recognized that it has a responsibility to ensure that agency personnel are adequately trained in the proper use of the federal supply schedule program. GSA noted that it has been working with DOD and other federal agencies to ensure that their contracting officers are fully trained on the proper use of the program and identified some of its ongoing and planned efforts toward this objective.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretaries of Defense and State; the Administrator, U.S. Agency for International Development; the Commanding General and Chief of Engineers, U.S. Army Corps of Engineers; the Director, Defense Contract Management Agency; and the Director, Defense Contract Audit Agency. We will make copies available to others on request. In addition, this report will be available at no charge on GAO's Web site at http://www.gao.gov.

The major contributors to this report are listed in appendix VII. If you have any questions about this report, please contact me on (202) 512-4841 or Timothy DiNapoli on (202) 512-3665.



William T. Woods
Director, Acquisition and Sourcing Management

List of Committees

The Honorable Susan M. Collins
Chairman
The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Tom Davis
Chairman
The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

The Honorable John W. Warner
Chairman
The Honorable Carl Levin
Ranking Minority Member
Committee on Armed Services
United States Senate

The Honorable Duncan Hunter
Chairman
The Honorable Ike Skelton
Ranking Minority Member
Committee on Armed Services
House of Representatives

The Honorable Ted Stevens
Chairman
The Honorable Robert C. Byrd
Ranking Minority Member
Committee on Appropriations
United States Senate

The Honorable C. W. Bill Young
Chairman
The Honorable David R. Obey
Ranking Minority Member
Committee on Appropriations
House of Representatives

The Honorable Richard G. Lugar
Chairman
The Honorable Joseph R. Biden
Ranking Minority Member
Committee on Foreign Relations
United States Senate

The Honorable Henry J. Hyde
Chairman
The Honorable Tom Lantos
Ranking Minority Member
Committee on International Relations
House of Representatives

Appendix I: List of Organizations Contacted

During the course of the review, we contacted the following organizations:

- Office of Management and Budget, Washington, D.C.;
- Office of Reconstruction and Humanitarian Assistance, Washington, D.C.;
- Coalition Provisional Authority, Washington, D.C., and Baghdad, Iraq;
- Department of Defense, the Comptroller, Pentagon, Washington, D.C.
- Department of the Army, Pentagon, Washington, D.C;
- Washington Headquarters Services, Pentagon, Washington, D.C.;
- Defense Contracting Command-Washington, Pentagon, Washington, D.C.;
- Southern Region Contracting Center, Army Contracting Agency, Fort McPherson, Georgia;
- Northern Region Contracting Center, Army Contracting Agency, Fort Eustis, Virginia;
- Army Field Support Command, Rock Island, Illinois;
- Headquarters, U.S. Army Corps of Engineers, Washington, D.C.; U.S. Army Engineer Division, Southwestern, Dallas, Texas; U.S. Army Engineer District, Fort Worth, Fort Worth, Texas; Engineering and Support Center, Huntsville, Alabama; Transatlantic Program Center, Winchester, Virginia; U.S. Army Engineer District, Philadelphia, Philadelphia, Pennsylvania; and Vicksburg Consolidated Contracting Office, Alexandria, Virginia;
- Defense Information Systems Agency, Arlington, Virginia, and Scott Air Force Base, Illinois;
- Department of Defense, Inspector General, Arlington, Virginia;
- Defense Contract Management Agency, Alexandria, Virginia;
- Defense Contract Audit Agency, Fort Belvoir, Virginia;
- U.S. Agency for International Development, Washington, D.C.;
- U.S. Department of State, Washington, D.C.; and
- U.S. Department of Justice, Washington, D.C.

Appendix II: Iraq Reconstruction Contracts/Task Orders and Obligations as of September 30, 2003

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Department of Defense			
Department of the Army			
U.S. Army Corps of Engineers			
Brown & Root Services, a division of Kellogg Brown & Root, Inc.	Restore Iraqi oil	New contract	$1,390,095,044
Washington International Inc.	Restore Iraqi electricity	Task order	110,960,000
Fluor Intercontinental, Inc.	Restore Iraqi electricity	Task order	102,460,000
Perini Corporation	Restore Iraqi electricity	Task order	66,589,900
Raytheon Systems Development Company	Interim Transitional Civil Administration Headquarters	New contract	19,679,939
IAP Worldwide Services	Restore Iraqi electricity-25 diesel generators	Task order	11,875,000
USA Environmental	Explosive ordnance removal services	Task order	6,800,000
Michael Baker Jr., Inc.	Coalitional Provisional Authority (CPA) program management support	Task order	4,416,209
Stanley Consultants, Inc.	CPA program management support	Task order	4,414,150
IAP Worldwide Services	Emergency generator lease for oil refinery	Contract modification	3,500,000
EOD Technology, Inc.	Explosive ordnance removal services	Task order	2,308,439
Total, U.S. Army Corps of Engineers			**$1,723,098,681**
Army Field Support Command			
Brown & Root Services, a division of Kellogg Brown & Root, Inc.	Logistic support for the CPA	Task order	$204,130,305
Brown & Root Services, a division of Kellogg Brown & Root, Inc.	Prepositioning fire-fighting equipment	New contract	37,500,000
Brown & Root Services, a division of Kellogg Brown & Root, Inc.	New Iraqi Army logistical training support	Task order	30,000,000
Brown & Root Services, a division of Kellogg Brown & Root, Inc.	Contingency planning	Task order	1,883,681
Total, Army Field Support Command			**$273,513,986**
Army Contracting Agency			
Vinnell Corporation	New Iraqi Army training	New Contract	$48,074,442
Blackwater Security Consulting LLC	Support services for protective security detail	General Services Administration (GSA) supply schedule	10,994,423
Total, Army Contracting Agency			**$59,068,865**
Defense Contracting Command–Washington			
Science Applications International Corporation	Iraqi Free Media Program	GSA supply schedule	$82,350,557

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Science Applications International Corporation	Subject matter experts for the Iraqi Reconstruction and Development Council	GSA supply schedule	24,811,853
S&K Technologies, Inc.	Administrative support	New contract	8,259,385
MZM, Inc.	Interpreter/linguists support services	GSA supply schedule	3,640,896
Military Professional Resources Inc.	Linguists	GSA supply schedule	1,901,962
Chugach McKinley Inc.	Professional skills and competencies support requirements program	New contract	1,210,846
Dataline, Inc.	Secure mobile communication and information collaboration capability	GSA supply schedule	1,028,852
Red River Computer Company	Computer equipment and accessories	GSA supply schedule	972,593
Military Professional Resources Inc.	Technical support to the Iraqi Army Reconstruction Support Program	GSA supply schedule	706,833
Dell Marketing, L.P.	Computer hardware and software	GSA supply schedule	513,679
Science Applications International Corporation	Subject matter expert for Energy Group	GSA supply schedule	477,284
RONCO Consulting Corporation	Disarmament, Demobilization and Reintegration Program	Purchase order	419,793
Force 3	Computer equipment and accessories	GSA supply schedule	274,652
UNISYS Corporation	Infrastructure study—country plan development	GSA supply schedule	255,000
Science Applications International Corporation	Subject matter experts for Democratization and Governance	GSA supply schedule	235,231
Science Applications International Corporation	Subject matter expert for military ministry coordinator	GSA supply schedule	201,011
Native American Industrial Distributors	Protocol officer and materials	Purchase order	195,017
International Global Systems, Inc.	Computer hardware and software	GSA supply schedule	157,383
Science Applications International Corporation	Subject matter expert for the civil administration advisor	GSA supply schedule	87,461
Giesecke & Devrient America, Inc.	Lease of currency authentication systems	Purchase order	66,200
Science Applications International Corporation	Subject matter expert for United Nations liaison and coordination	GSA supply schedule	64,028
Science Applications International Corporation	Senior executive assistant to Oil Advisory Board	GSA supply schedule	55,174
Intelligent Enterprise Solutions	Computer hardware and software	GSA supply schedule	19,835
JSI Inc.	Desktop administration tool	Purchase order	3,376
Total, Defense Contracting Command-Washington			**$127,908,901**
Total, Department of the Army			**$2,183,590,433**
Department of the Air Force			
Readiness Mgt. Support LC	Iraq logistical support	Task order	$91,500,000
Total, Department of the Air Force			**$91,500,000**

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Other Defense agencies and components			
Defense Contract Management Agency			
Global Risk Strategies, Ltd.	Personal and Facility Security Program	New contract	$7,112,813
Global Risk Strategies, Ltd.	Personal and Facility Security Program	New contract	3,537,449
Global Risk Strategies, Ltd.	Personal and Facility Security Program	New contract	2,413,205
Global Risk Strategies, Ltd.	Security mobilization and start up	New contract	1,633,032
Motorola, Inc.	Mobile digital radios, equipment and accessories	GSA supply schedule	1,281,701
Meteoric Tactical Solutions, (PTY) Ltd.	Security advisors and planners	New contract	599,383
Blackwater Lodge and Training Center, Inc.	Private security details	New contract	300,000
Total, Defense Contract Management Agency			**$16,877,583**
Defense Information Systems Agency			
Science Applications International Corporation	CPA integrated communication and information technology support systems	Task order	$22,081,803
SETA Corporation	CPA internal communications and management support	Task order	3,165,765
Artel	Telecommunications and LAN support for Iraqi Forum building	New contract	1,254,902
AOS, Inc.	Satellite phone channel	Delivery order	866,988
Total, Defense Information Systems Agency			**$27,369,458**
Washington Headquarters Services			
Cellhire USA	Airtime for satellite telephones	GSA supply schedule	$960,000
Cellhire USA	20 satellite telephones and accessories	GSA supply schedule	260,480
Cellhire USA	15 satellite telephones and airtime	GSA supply schedule	85,545
Cellhire USA	80 satellite phones	GSA supply schedule	71,920
LandSea Systems, Inc	6 portable telephone systems and accessories	GSA supply schedule	47,750
Comfort Inn	Hotel lodging/meals	Purchase order	47,324
Cellhire USA	4 satellite telephones, accessories, and airtime	GSA supply schedule	46,040
Cartridge Discounters	1 copier and supplies	GSA supply schedule	40,492
Cellhire USA	17 satellite telephones and airtime	GSA supply schedule	35,683
Outfitter Satellite, Inc.	13 satellite telephones and airtime	Purchase order	33,203
Bald Industries	285 holsters, 250 compasses, and 6 rolling duffel bags	GSA supply schedule	21,884
The GPS Store, Inc	90 Global Positioning Systems	GSA supply schedule	19,761
Atlas Case, Inc.	25 cases	GSA supply schedule	17,243
CDW Government, Inc	8 digital projectors	GSA supply schedule	16,224

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Export Depot	165 voltage converters	Purchase order	14,473
Bald Industries	200 mosquito netting	GSA supply schedule	13,850
Bea Mauer, Inc.	40 footlockers	GSA supply schedule	9,920
SPARCO	20 digital cameras	GSA supply schedule	9,215
CDW Government, Inc	75 2-way radios and accessories	GSA supply schedule	7,965
CDW Government, Inc	188 UPS power supply units	GSA supply schedule	7,332
The Electric Generator Store	3 generators	Purchase order	6,974
Export Depot	112 transformers	Purchase order	6,709
Cellhire USA	Satellite telephone and accessories	GSA supply schedule	6,315
Capital Shredder Corporation	3 shredders and accessories	GSA supply schedule	6,286
Capital Shredder Corporation	3 shredders	GSA supply schedule	5,517
Total Business	8 digital camcorders	GSA supply schedule	4,696
Hardware Associates	14 2-way radios and accessories	GSA supply schedule	4,304
Staples National Advantage	5 copiers with supplies	GSA supply schedule	4,194
EHI Company	6 flat screen TVs	GSA supply schedule	3,956
CDW Government, Inc	30 handheld 2-way radios	GSA supply schedule	3,653
The Complement, Inc.	28 steel trunks	Purchase order	3,358
MEI Research Corporation	15 cases	Purchase order	3,276
WECSYS	20 folding tables and 30 chairs	GSA supply schedule	3,040
Smith Office Machines Corporation	3 copiers with supplies	Purchase order	2,961
Total, Washington Headquarters Services			**$1,831,543**
Total, other Defense agencies and components			**$46,078,584**
Total, Department of Defense			**$2,321,169,017**
U.S. Agency for International Development			
Bechtel National Inc.	Capital construction	New contract	$1,029,833,259
Research Triangle Institute	Local governance	New contract	104,611,000
BearingPoint, Inc.	Economic recovery, reform, and sustained growth	New contract	39,000,000
Creative Associates International Inc.	Education	New contract	37,853,000
Development Alternatives, Inc.	Transition initiative	New contract	35,523,857
International Resources Group	Personnel support	New contract	26,621,153
Abt Associates Inc.	Public health	New contract	20,995,000
Stevedoring Services of America, Inc	Seaport administration	New contract	14,318,985
SkyLink Air and Logistic Support USA) Inc.	Airport administration	New contract	17,500,000
Management Systems International	Monitoring and evaluation	Task order	5,500,000
Development Alternatives, Inc.	Marshland initiative	Task order	4,000,000

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Total, U.S. Agency for International Development			**$1,335,756,254**
Department of State			
DynCorp International, LLC	Law enforcement, judicial, and corrections support	New contract	$19,640,359
Total, Department of State			**$19,640,359**
Department of Justice			
Science Applications International Corporation	Police training and support	Task order	$1,700,000
Total, Department of Justice			**$1,700,000**
Grand Total			**$3,678,265,630**

Source: GAO's analysis of data provided by DOD, the CPA, USAID, and the Departments of State and Justice.

Appendix III: Comments from the Department of Defense

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION, TECHNOLOGY AND LOGISTICS

MAY 1 8 2004

Mr. William T. Woods
Director, Acquisition and Sourcing Management
U.S. General Accounting Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Woods:

This is the Department of Defense (DoD) response to the GAO draft report, "REBUILDING IRAQ: Fiscal Year 2003 Contract Award Procedures and Management Challenges," dated April 22, 2004 (GAO Code 120248/GAO-04-605).

One of the recurring themes is the issue of adequate resources to support contingency operation requirements. The Department has eliminated redundancies within its workforce and is staffed to support lean and efficient acquisition operations. As indicated in our response to recommendation 5, efforts are underway to conduct a study on DoD strategy for post-war operations and to incorporate into that strategy acquisition support. The Department is committed to providing the funding and resources to support contingency contracting requirements to ensure the highest caliber of support with the strictest adherence to acquisition regulations. Contingency operations do not obviate our obligation to safeguard the expenditure of appropriated funds in the most efficient and effective manner possible. Enclosed are DoD's comments regarding the recommendations on page 33 of your draft report. Additional general comments are also enclosed.

My point of contact for this report is Mr. Craig Curtis, 703 614-6719 or craig.curtis@osd.mil. Thank you for the opportunity to review and comment on your draft report and recommendations.

Sincerely,

for Deidre A. Lee
Director, Defense Procurement
and Acquisition Policy

Enclosures:
As stated

GAO DRAFT REPORT - DATED APRIL 22, 2004
GAO CODE 120248/GAO-04-605

"REBUILDING IRAQ: FISCAL YEAR 2003 CONTRACT AWARD PROCEDURES AND MANAGEMENT CHALLENGES"

DEPARTMENT OF DEFENSE COMMENTS TO THE RECOMMENDATIONS

RECOMMENDATION 1: The GAO recommended that the Secretary of the Army review the out-of-scope task orders for Iraqi media and subject matter experts, issued by the Defense Contracting Command-Washington, and take the necessary remedial actions. (p. 33/GAO Draft Report)

DOD RESPONSE: Concur. DCC-W is taking all the appropriate remedial actions that are available including documenting files, taking corrective actions, and revising the Justification & Approvals as appropriate. In addition DCC-W is including scope issues in the ongoing training that is being conducted with contracting staff.

RECOMMENDATION 2: The GAO recommended that the Secretary of the Army ensure that any future task orders under the Logistics Civil Augmentation Program (LOGCAP) contract for Iraq reconstruction activities are within the scope of that contract. (p. 33/GAO Draft Report)

DOD RESPONSE: Partially Concur. The Procuring Contracting Officer for the LOGCAP contract reviews each proposed Scope of Work which will result in a task order and makes a determination whether the action is within the scope of the contract. Appropriate legal advice is obtained as necessary. This finding appears to be based upon the review of one action under the LOGCAP contract, described by the GAO as follows:

See comment 1.

"The Army Field Support Command issued a $1.9 million task order for contingency planning for the Iraq oil infrastructure mission under its LOGCAP contract with Kellogg Brown & Root. The task order was not within the scope of that contract.[20] This task order, issued in November 2002, required the contractor to develop a plan to repair and restore Iraq's oil infrastructure should Iraqi forces damage or destroy it. Because the contractor was knowledgeable about the U.S. Central Command's (CENTCOM) planning for conducting military operations, DOD officials determined the contractor was uniquely positioned to develop the contingency support plan. DOD determined that planning for the missions was within the scope of the LOGCAP contract, but also determined that the actual execution of the Iraq oil mission, including pre-positioning of fire-fighting equipment and teams, was beyond its scope. We agree with the DOD conclusion that repairing and continuing the operations of the Iraqi oil infrastructure is not within the scope of the contract. But unlike DOD, we conclude that preparation of the contingency support plan for this mission was beyond the scope of the contract. We read the LOGCAP statement of work as contemplating planning efforts for missions designated for possible contractor execution under the contract. Consequently, the Army Field Support Command should have prepared a written justification to authorize the work without competition."

The within scope determination was made by the Procuring Contracting Officer on the advice of the DoD General Counsel's office. (Additional details on this issue are provided in the attached "General Comments.") It should also be noted that while the LOGCAP contract provides logistics support for the CPA, this contract has not been a vehicle for reconstruction efforts.

RECOMMENDATION 3: The GAO recommended that the Secretary of the Army address and resolve all outstanding issues in connection with the pending justifications and approvals for the contracts and related task orders used by the Army Corps of Engineers to restore Iraq's electricity infrastructure. (p. 33/GAO Draft Report)

DOD RESPONSE: Concur. Transatlantic Center, U.S. Army Corps of Engineers, answered all Department of Army questions regarding the pending justification and approvals. The justification and approvals are within the Assistant Secretary of the Army for Acquisition, Logistics, and Technology for signature.

RECOMMENDATION 4: The GAO recommended that the Secretary of Army direct the Commanding General, Army Field Support Command and the Commanding General and Chief of Engineers, U.S. Army Corps of Engineers, to definitize outstanding contracts and task orders as soon as possible. (P. 33/GAO Draft Report)

See comment 2.

DOD RESPONSE: Concur. The Commanding General of the Army Field Support Command has already initiated a process to definitize outstanding task orders under the LOGCAP contract in a timely manner. The Procuring Contracting Officer established firm dates for the submission of qualifying proposals from the contractor. The Army Field Support Command agreed upon expedited milestones for the preparation of audits by the Defense Contract Audit Agency. Firm milestones for the completion of negotiations have also been established. At this time, the contractor has submitted timely proposals for 21 task orders and 3 of these definitizations are complete. Progress on definitizations is reviewed by the Commanding General on a bi-weekly basis and by the Deputy Commander on a weekly basis. It should be noted that two of these task orders provide logistics support to the CPA and one provides logistics support to the New Iraqi Army. None of these orders are for reconstruction efforts in Iraq.

RECOMMENDATION 5: The GAO recommended that the Secretary of Defense, in consultation with the Administrator, U.S. Agency for International Development, evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate acquisition staff and other resources can be made available in a timely manner. (p. 33/GAO Draft Report)

DOD RESPONSE: Concur. In response to DoD Inspector General report D2003CF-015299-217, "Contracts Awarded for the Coalition Provisional Authority by the Defense Contracting Command – Washington", and that report's first recommendation, efforts are already underway to conduct a study of the existing DoD strategy for post-war operations and to incorporate very early into the strategy, a provision for acquisition support. This planned strategy, or study, will first examine ongoing and completed post war reviews that capture broader best practices and lessons learned and that will provide a suitable forum to examine your acquisition/procurement recommendation.

GAO DRAFT REPORT - DATED APRIL 22, 2004
GAO CODE 120248/GAO-04-605

"REBUILDING IRAQ: FISCAL YEAR 2003 CONTRACT AWARD PROCEDURES AND MANAGEMENT CHALLENGES"

GENERAL COMMENTS

Page 31. First paragraph. Footnote 28.

See comment 3.

In regard to the footnote, the determination was not made on a class basis. The document contained a common justification for 26 specifically identified "particular procurements." In addition, the Secretary and the Deputy Secretary coordinate closely on many issues and the Deputy Secretary has broad authority from the Secretary to act on his behalf and to act in his absence. Absent some indication otherwise, the report should not imply that the Secretary did not agree with the determination.

Starting Page 15. In the draft report, the GAO raises the question of whether contingency support planning for restoring Iraqi oil infrastructure was within or outside the scope of the existing LOGCAP contract. The GAO characterizes contingency support planning for restoring Iraqi oil infrastructure as being outside the scope of the existing LOGCAP contract. This is sometimes but not always accurately described as being GAO's opinion rather than a matter of fact – a distinction the GAO recognizes as significant. (See the first complete paragraph on page 17, which explains that determining whether work is within the scope of an existing task order contract is primarily an issue of contract interpretation and judgment.) The report should be changed in the following ways to accurately and fairly describe the situation:

See comment 4.

- The key question which must be answered is whether the agency complied with requirements for issuing task orders on existing contracts. The answer in this case is yes, the agency complied with requirements. The GAO report should include the following facts:
 - DoD obtained a written legal opinion, prior to issuance of the task order, that concluded the requirement for the contingency plan was within the scope of work of the LOGCAP contract. This legal opinion described the plan as "exactly the sort of planning that the CINCs must engage in to determine logistics support necessary to accomplish their missions, and such plans are within the scope of paragraph 2.4.1 of the LOGCAP SOW." The opinion also notes that the scope of work of the LOGCAP contract explicitly contemplates use of LOGCAP, including its planning function, in operations that by definition are non-combat.
 - The DoD legal opinion, concurred by Army General Counsel's office, noted that possible execution of the plan would *not* be within the scope of the LOGCAP contract and, if execution effort was required, any sole source contracting would have to be justified [in accordance with FAR Part 6]. This legal advice was followed. As the GAO draft report acknowledges, all execution effort was properly justified (the $37.5 million pre-positioning effort (see Table 5 entry at the top of page 16) and the Corps of Engineers contract for repair and operations of Iraq's oil infrastructure (see Table 5's first entry on page 15).

- If, after considering this documentation, the GAO continues to disagree with the conclusion reached by DoD, each statement of the GAO opinion in the report should be identified as the GAO's opinion and not presented as a statement of fact (e.g., first sentence in Table 6 entry). The GAO opinion should follow, rather than precede, the description of actions taken by DoD, in compliance with applicable rules, to determine the work was within the scope of the LOGCAP contract.
- To address these comments, report content that requires change includes:
 - Page 18, Table 6, last entry regarding contingency support planning for restoring Iraqi oil infrastructure.
 - Page 21, second bullet.
 - Page 22, first complete paragraph.

The following are GAO's comments on the Department of Defense's letter dated May 13, 2004.

GAO Comments

1. The Department of Defense (DOD) incorrectly noted that the recommendation was based on only one instance. In addition to the example cited by DOD, we also expressed concern about whether the task orders to provide logistical support for the Coalition Provisional Authority (CPA) and to the New Iraqi Army training program were within the scope of the underlying Logistics Civil Augmentation Program (LOGCAP) contract.

2. The actions being taken by the Army Field Support Command are positive steps to monitor progress in reaching agreement on the contracts' key terms and conditions. DOD did not indicate, however, what steps the Army Corps of Engineers was taking to definitize the actions for which the Corps is responsible. As noted in table 7, the Army Corps of Engineers had two undefinitized contracts on which had obligated more than $1.5 billion as of March 2004.

3. DOD asserts that the determination and finding was not made on a class basis because it included a common justification for 26 specifically identified "particular procurements." The Federal Acquisition Regulation (FAR) provides for determination and findings for individual contract actions (FAR 1.702) and a class of contract actions (FAR 1.703). Because the determination and finding encompasses 26 contract actions, we conclude that it is a class determination and finding. Specifically enumerating members of the class does not alter the fundamental fact that it is for more than one action. Class determination and findings are specifically prohibited by FAR 6.302-7(c)(4). As to the question of authority to execute the determination and finding, we do not dispute that the Deputy Secretary has broad authority to act on behalf of the Secretary. We note, however, that the plain language of the law provides that authority to approve public interest exceptions may not be delegated[1] and conclude that the Deputy Secretary did not have authority in this instance.

[1] With regard to the public interest exception (10 U.S.C. 2304(c)(7)), the law specifically states that, "the authority of the head of an agency under subsection (c)(7) may not be delegated." 10 U.S. C. 2304(d)(2).

4. Legal analysis by its nature reflects opinion. In the opinion of GAO, the Army, and DOD, the actual restoration of Iraqi oil infrastructure was not within the scope of the LOGCAP contact. We also noted that the LOGCAP contract anticipates contingency planning for work that can be executed under the contract. In other words, contingency planning is within the scope of the contract only if the actual work is also within the scope of the contract. In this instance, all parties agree that actual restoration of the oil infrastructure was not within the scope of the contract. Consequently, we conclude that planning the oil infrastructure restoration was also not within the scope of the contract.

We would encourage the contracting officer to continue to obtain legal assistance given the complexity of the LOGCAP contract, but we also believe that DOD needs to ensure analytical rigor in its review of task orders.

Appendix IV: Comments from the Department of State



United States Department of State

Assistant Secretary and Chief Financial Officer

Washington, D.C. 20520

MAY 7 2004

Ms. Jacqueline Williams-Bridgers
Managing Director
International Affairs and Trade
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "REBUILDING IRAQ: Fiscal Year 2003 Contract Award Procedures and Management Challenges," GAO Job Code 120248.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Timothy Henderson, Division Chief, Bureau of International, Narcotics and Law, at (202) 776-8718.

Sincerely,

Christopher B. Burnham

cc: GAO – Ridge Bowman
INL – Robert Charles
State/OIG – Mark Duda
State/H – Paul Kelly

Department of State Comments on GAO Draft Report
REBUILDING IRAQ: Fiscal Year 2003 Contract Award Procedures and Management Challenges
(GAO-04-605, GAO Job Code 120248)

Thank you for the opportunity to review and comment on your draft report "Rebuilding Iraq: Fiscal Year 2003 Contract Award and Management Challenges."

The report states in the opening paragraph that the authority cited by the Department of State to support the use of limited competitive procedures to award a contract for assistance in Iraq, section 481(a)(4) of the Foreign Assistance Act of 1961, as amended (FAA), the so-called "notwithstanding" authority, "may not be a recognized exception to competition requirements." The report also states that State could have justified and approved its limited competition under "recognized exceptions" to the competition requirements.

The Department believes the FAA sec 481 authority cited was employed appropriately and nothing in the report supports the speculative conclusion that it "may not be a recognized exception." While the GAO might want to say they do not like the use of the "notwithstanding" authority because they think that prudentially, as a matter of policy, it should be used more narrowly, they should not express doubt as to its availability.

The Department disagrees with the GAO view noted on pages 5, 14 and 19 of the report that other "recognized exceptions" were available to support the limited competitive solicitation. Before deciding to employ the section 481 authority, all Federal Acquisition Regulation (FAR) exceptions to the requirement for full and open competition were considered. The only exception that may have applied, FAR 6.302-2, provides for limiting competition when a requirement is of an "unusual and compelling urgency." While that authority was appropriate to support limited competition of the basic mission requirement, the full extent of the requirement could not be ascertained. The Department concluded that, in order to respond to probable exigent requirements as the mission unfolded, the contract needed to include an option provision that would allow the procurement of additional services with an absolute minimum of delay. Since the additional level of services was not known, the Department considered that the characterization of the circumstances as being of an "unusual and compelling urgency" would have

been somewhat unusual in light of past practice and preferred not to rely on that exception although also legally available. This analysis was discussed with GAO personnel in the course of their fieldwork and they took no exception to it.

Appendix V: Comments from the U.S. Agency for International Development



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

MAY 12 2004

Mr. William T. Woods
Director
Acquisition and Sourcing Management
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Woods:

I am pleased to provide the U.S. Agency for International Development's (USAID's) formal response on the draft GAO report entitled "Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges" (GAO-04-605).

Upon review of the draft, we concur with the draft as written and therefore have no comment.

Thank you for the opportunity to respond to the GAO draft report and for the courtesies extended by you staff in the conduct of this review.

Sincerely,

John Marshall
Assistant Administrator
Bureau for Management

1300 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20523

Appendix VI: Comments from the General Services Administration

GSA

GSA Office of Governmentwide Policy

MAY 7 2004

Mr. William T. Woods
Director
Acquisition and Sourcing Management
U.S. General Accounting Office
441 G Street, NW, Room 4440A
Washington, DC 20548

Dear Mr. Woods:

The General Services Administration (GSA) welcomes the opportunity to provide comment on GAO Report GAO-04-605, Rebuilding Iraq, Fiscal Year 2003, Contract Award Procedures and Management Challenges. GSA recognizes that we have a responsibility to ensure that ordering activities using GSA Schedules are adequately trained in the proper use of Schedules. We have been working with the Department of Defense (DOD), as well as other Federal agencies and are committed to expanding our work with DOD to ensure that all of its' contracting officers are fully trained on the proper use of GSA Schedules.

We have several ongoing and planned efforts in this vein. We have online and classroom training available that assists in strengthening the contracting personnel's knowledge of the GSA Schedules Program. It includes guidance on Section 803 as it pertains to orders over $100,000 for services. We offer the course "*Using GSA Schedules*" online which is self-paced and available 24/7 at no cost. The student can take the course from their workstation. This training is offered on the FSS Center for Acquisition Excellence Virtual Campus (fsstraining.gsa.gov). The *Using GSA Schedules* course is planned for update upon the issuance of FAR Case 1999-603, FSS Services and Blanket Purchase Agreements (BPAs) as a final rule in the Federal Acquisition Regulation (FAR). The Virtual Campus is currently focused on GSA Schedules training, but is being expanded to be more representative of the totality of training needs such as training on GWACS and the Global Supply Program.

We also conduct the *Using GSA Schedules* course onsite as classroom training, and have done so for some DOD facilities. We will be happy to schedule additional onsite training as needed.

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405-0002
www.gsa.gov

GSA participates in numerous training events each year including National Contract Management Association seminars, the annual Federal Acquisition Conference, Contracting Defense Acquisition University (DAU) courses, etc. GSA also hosts numerous annual events such as EXPO, FOSE, and the International Outreach conference where we offer acquisition training on GSA Schedules. From May 11 - 13, 2004, we are offering free, certified training on our programs during our EXPO in Orlando, Florida. This is one of our major outreach efforts to our Federal customers using the GSA Schedules Program.

In 2003, we conducted the first self-assessment compliance survey for agency acquisition personnel on their use of GSA Schedules. We contracted with a firm to conduct the survey to determine whether agency acquisition personnel are aware of and complying with current FAR and agency-specific regulations in placing orders under GSA Schedules. It also assesses their working knowledge of GSA Schedule requirements such as Section 803, the use of blanket purchase agreements, performance-based statements of work, the maximum order threshold, price reductions, etc. We use this information to identify specific training needs; for example we have partnered with the Defense Acquisition University (DAU) to develop a tutorial with exercises on performance based contracting. This will enhance training for both agencies. We plan to conduct annual surveys to measure the effectiveness of our training and identify additional training needs.

As a follow-up to these surveys we are planning an "Insight" initiative, which will be a more in-depth review of how agency acquisition personnel are using GSA Schedules. This survey will not be self-assessment based. GSA will be actively engaged with agencies in reviewing their use of GSA Schedules. It is a new initiative, scheduled for launch this summer. The goal is to assess contracting personnel's understanding of acquisition requirements, to develop best practices, and enhance our customer training to further assist them in properly using GSA Schedules.

We are also developing a new working tool for contracting officers to assist them in placing orders under GSA Schedules. We have a published Owner's Manual that provides detailed information using GSA Schedules and walks customers through placing orders under a GSA Schedule contract. This new tool is designed to be a quick, handy reference and function as a checklist, or a mini-Owner's Manual, to guide acquisition personnel in policies and procedures to consider when placing orders under GSA Schedule contracts.

Further, our GSA Schedules website (www.gsa.gov/schedules) provides customers with detailed ordering information for products and services, including eligibility to use GSA sources, price reductions, how contractors may apply for a GSA Schedule contract, Small Business Administration goals, blanket purchase agreements (BPAs), open market items, and contractor team arrangements. The website contains information and links to our most prominent e-tools such as e-Buy, GSA *Advantage!*, and e-Library to assist customers in both market research and ordering from Schedules.

All of the initiatives described above are designed to provide an integrated approach in gaining a better understanding of how customers use GSA Schedules, enhance training, and assure that all agencies using GSA Schedules are fully trained in the proper and efficient use of GSA Schedules to meet their service and supply requirements. The ultimate goal is to assure that acquisition regulations, policies, and procedures are being properly applied and that the American taxpayer is getting the best value for their Government.

GSA appreciates this opportunity to comment on this important GAO report and welcomes the opportunity to expand our training support to DOD.

Sincerely,

for David A. Drabkin
Deputy Associate Administrator
for Acquisition Policy

cc: Pat Mead
Office of Acquisition Management (FSS)

Appendix VII: GAO Contacts and Acknowledgments

GAO Contacts

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Timothy DiNapoli, (202) 512-3665

Acknowledgments

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PRINTED ON RECYCLED PAPER

June 2004

NUCLEAR NONPROLIFERATION: DOE's Effort to Close Russia's Plutonium Production Reactors Faces Challenges, and Final Shutdown Is Uncertain

United States General Accounting Office

GAO

Report to the Chairman, Subcommittee on Emerging Threats and Capabilities, Committee on Armed Services, U.S. Senate

June 2004

NUCLEAR NONPROLIFERATION

DOE's Effort to Close Russia's Plutonium Production Reactors Faces Challenges, and Final Shutdown Is Uncertain



GAO-04-662

June 2004

NUCLEAR NONPROLIFERATION

DOE's Effort to Close Russia's Plutonium Production Reactors Faces Challenges, and Final Shutdown Is Uncertain

GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-04-662, a report to the Chairman, Subcommittee on Emerging Threats and Capabilities, Committee on Armed Services, U.S. Senate

Why GAO Did This Study

Russia's continued operation of three plutonium production reactors poses a serious proliferation threat. The Department of Energy's (DOE) Elimination of Weapons-Grade Plutonium Production program seeks to facilitate the reactors' closure by building or refurbishing replacement fossil fuel plants. This report (1) describes DOE's efforts to manage and implement the program, (2) assesses the challenges DOE faces in achieving its goal of shutting down the reactors, and (3) identifies DOE's current expenditures and projected program costs.

What GAO Recommends

GAO recommends, among other things, that DOE (1) reach agreement with Russia on the steps that must be taken to shut down the reactors and the conditions necessary to complete the fossil fuel plants; (2) amend the reactor shutdown agreement to reflect DOE's revised completion dates for the fossil fuel plants; and (3) develop a plan, in conjunction with Russia, to address the problem of employing nuclear workers who will lose their jobs when the reactors are closed.
DOE agreed to implement our recommendations. The Department of State disagreed with our recommendation that DOE consider seeking funds from Russia to construct the fossil fuel plants. DOE plans to seek financial support provided that it does not delay the program.

www.gao.gov/cgi-bin/getrpt?GAO-04-662.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Gene Aloise at (202) 512-3841 or aloisee@gao.gov.
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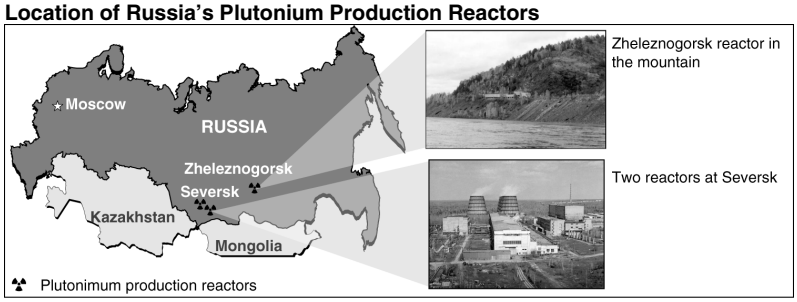
What GAO Found

DOE is financing and managing the construction of two fossil fuel plants in Russia that will replace the heat and electricity that will be lost with the shutdown of Russia's three plutonium production reactors. DOE (1) has developed an overall plan to manage its program, (2) has selected two U.S. contractors to oversee the construction of replacement fossil fuel plants, and (3) is working with its U.S. contractors to review specific design and construction plans for the plants. DOE officials expressed concern that the number of organizations, 17, involved in the program makes coordination difficult and has led to delays. Additionally, DOE and U.S. contractor officials said that the primary Russian contractor may not have adequate experience and currently lacks enough staff to implement its part of the program.

Final shutdown of the reactors is uncertain because DOE faces a number of challenges in implementing its program, including (1) ensuring Russia's commitment to the nonproliferation and safety goals of the program, (2) clarifying the existing reactor shutdown agreement, and (3) working with Russia to find employment for thousands of Russian nuclear workers who will lose their jobs when the reactors are closed. Russia's rejection of DOE's proposals to reduce the amount of plutonium produced by the reactors and to improve the safety of the reactors before they are shut down raises serious questions about Russia's commitment to key program goals. Furthermore, the existing reactor shutdown agreement contains shutdown dates that do not reflect DOE's planned program schedule. Finally, the challenge of finding employment for Russian nuclear workers could undermine the program by creating the potential for Russia to continue operating the reactors longer than necessary to ensure jobs for the workers. DOE has not developed a plan to address this issue.

As of December 31, 2003, DOE had spent $7.8 million—about 4 percent of available funds on planning and developing the program, including travel, overhead, project administration, and document translation costs. Regarding future program costs, DOE officials told us that they expect the projected costs to build the replacement fossil fuel plants to be significantly higher than their original estimate of $466 million, possibly as much as $1 billion.

Location of Russia's Plutonium Production Reactors



Sources: GAO and DOE.

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Abbreviations

CTR	Cooperative Threat Reduction
CD	Critical Decision
DOD	Department of Defense
DOE	Department of Energy
OKBM	Experimental Design Bureau for Machine Building
IPP	Initiatives for Proliferation Prevention
ISTC	International Science and Technology Center
MINATOM	Ministry of Atomic Energy of the Russian Federation
NSC	National Security Council
NCI	Nuclear Cities Initiative
OMB	Office of Management and Budget
PNNL	Pacific Northwest National Laboratory
RTI	Russian Transition Initiatives
WGI	Washington Group International

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United States General Accounting Office
Washington, D.C. 20548

June 4, 2004

The Honorable Pat Roberts
Chairman, Subcommittee on Emerging Threats
and Capabilities
Committee on Armed Services
United States Senate

Dear Mr. Chairman:

Russia's continued operation of three plutonium production reactors, which together produce enough weapons-grade plutonium[1] each year for about 300 nuclear weapons, poses a serious proliferation threat. This plutonium—up to 1.2 metric tons produced annually—is being added to Russia's already vast stockpile of weapons-usable nuclear material. The shutdown of these reactors has been a long-standing nonproliferation goal of the United States, and efforts to secure their closure have continued for over a decade. By 1992, Russia had shut down all but 3 of its 13 plutonium production reactors—2 continue to operate in the closed nuclear city of Seversk and 1 in the closed nuclear city of Zheleznogorsk.[2] While the primary role of plutonium production reactors in the former Soviet Union was to produce weapons-grade plutonium, some of the reactors, including the three that remain in operation, were also designed to generate heat and electricity for nearby cities. Because temperatures in these cities can drop to -40 degrees Fahrenheit in winter and the nearly 300,000 Russians living there depend on the reactors for heat and electricity, alternate heat and power sources must be made available before the reactors can be shut down.

In addition to producing weapons-grade plutonium, these reactors are considered by U.S. and Russian experts to be among the most unsafe in the world. These reactors do not have a containment structure, generally a steel-lined concrete, dome-like structure that serves as the ultimate barrier

[1]Weapons-grade plutonium consists of at least 90 percent of the isotope plutonium-239.

[2]Ten closed nuclear cities formed the core of the former Soviet Union's nuclear weapons complex. Many of the cities are located in geographically remote locations and were so secret that they did not appear on any publicly available maps until 1992. In 1992, Russia changed the names of the closed cities to which we refer in this report: Tomsk-7 became known as Seversk, and Krasnoyarsk-26 became known as Zheleznogorsk. For more information on Seversk and Zheleznogorsk, see appendix I.

to the release of radioactive material during an accident. Furthermore, the reactors, which were built in the 1960s, have exceeded their original estimated operating life by 20 years.

In 1994, Vice President Gore and Russian Prime Minister Chernomyrdin signed an agreement whereby Russia pledged to (1) shut down its three remaining plutonium production reactors by 2000; (2) not restart any other plutonium production reactors that had been shut down prior to signing of the agreement; and (3) not use plutonium produced by the three reactors in nuclear weapons. At the same time, the United States agreed that it would not restart any of its plutonium production reactors. However, the 1994 agreement never entered into force[3] because the United States and Russia could not agree upon who would pay for alternative sources of heat and electricity to replace the reactors. A new agreement, signed by Gore and Chernomyrdin in 1997, addressed this problem by committing the United States and Russia to share the cost of modifying the cores of the reactors so that they could continue to provide heat and electricity while no longer producing spent (used) fuel that could be easily converted into weapons-grade plutonium. This agreement, which entered into force immediately, banned the restart of previously shutdown plutonium production reactors, prohibited Russia's use of newly produced plutonium in nuclear weapons, and established a monitoring regime under which U.S. and Russian personnel regularly inspect previously shutdown plutonium production reactors. In addition, under the agreement, U.S. representatives verify the quantities of plutonium that have been produced by the three Russian reactors since 1997 and determine that this material is kept in storage rather than being used in nuclear weapons. Also in 1997, the Department of Defense (DOD) was assigned formal responsibility for managing the U.S. effort to modify the reactors, with technical assistance from the Department of Energy (DOE) and its national laboratories. Between fiscal years 1994 and 2001, the United States spent approximately $42.5 million to explore the feasibility of modifying the reactors.[4] However, numerous

[3]An agreement enters into force the moment all provisions become legally binding on its parties.

[4]The total funding for U.S. efforts to eliminate weapons-grade plutonium production in Russia between fiscal years 1994 and 2001 includes funds provided by DOD, DOE, the U.S. Trade and Development Agency, and the Department of State's Nonproliferation and Disarmament Fund. The total funding amount has been adjusted to constant fiscal year 2003 dollars.

technical and political obstacles slowed the effort to modify the reactors, and the program languished.

In 2001, the United States and Russia agreed to pursue another option to bring about the closure of the reactors: building or refurbishing fossil fuel plants to replace a significant amount of the heat and electricity now produced by the reactors. The management of the program was transferred from DOD to DOE in December 2002, as the result of a review of all U.S. nonproliferation programs led by the National Security Council. The National Nuclear Security Administration manages DOE's effort, which is known as the Elimination of Weapons-Grade Plutonium Production program (hereafter referred to as the program).[5] In March 2003, the Secretary of Energy and the Minister of Atomic Energy of the Russian Federation (MINATOM)[6] signed an amendment to the 1997 agreement, as well as a new implementing reactor shutdown agreement between DOE and MINATOM, whereby the United States agreed to fund the construction or refurbishment of two fossil fuel plants to replace the three plutonium production reactors. Russia agreed to shut down all three reactors by 2006. Specifically, Russia agreed to shut down the reactors as soon as the replacement fossil fuel plants are able to provide sufficient heat and electricity to the cities of Seversk and Zheleznogorsk.[7] The agreement also stated that Russia would (1) assume responsibility for the fuel, operation, and maintenance of the replacement fossil fuel plants and for their

[5]The National Nuclear Security Administration is a separately organized agency within DOE that was created in October 1999 with responsibility for the nation's nuclear weapons, nonproliferation, and naval reactors programs.

[6]MINATOM was downgraded to a noncabinet level agency within the Russian bureaucracy in March 2004 by order of the President of Russia. Oversight of its operation of defense-related nuclear enterprises was transferred to the Ministry of Defense and oversight of its civilian nuclear activities was transferred to the newly created Ministry of Industry and Energy. DOE officials told us they thought this reorganization would not affect the program.

[7]According to the agreement, the two reactors at Seversk will be permanently shut down when DOE provides assistance to supply heat and electricity at a maximum capacity of up to 1560 gigacalories of steam generation per hour and up to 235 megawatts of electricity generation. Shutdown of the Zheleznogorsk reactor is to occur when DOE provides assistance to supply heat and electrical capacity of up to 660 gigacalories of steam generation per hour and up to 117 megawatts of electricity generation. A gigacalorie is a thermal energy measurement equal to one billion calories. A megawatt is a measurement of electrical power equal to one million watts.

commissioning and (2) remain responsible for the decommissioning of the plutonium production reactors following their shutdown.[8]

In this context, you asked us to review DOE's program to help Russia shut down these reactors. This report (1) describes DOE's efforts to manage and implement the program since it was transferred from DOD, (2) assesses the challenges that DOE faces in achieving its goal of shutting down the reactors, and (3) identifies DOE's current expenditures and projected costs to implement the program. To address these objectives, we interviewed U.S. officials from DOE, DOD, and the Department of State (State), the Nuclear Regulatory Commission, the Pacific Northwest National Laboratory (PNNL), and the National Energy Technology Laboratory on matters related to U.S. efforts to secure the shutdown of Russia's plutonium production reactors. In September 2003, we interviewed officials in Moscow from the Ministry of Atomic Energy of the Russian Federation; Rosatomstroi, the primary Russian contractor; and Gosatomnadzor, the Russian nuclear regulatory agency. In addition, we went to the cities of Seversk and Zheleznogorsk, where the plutonium production reactors are currently in operation and interviewed scientists, plant managers, city officials, and reactor operators. We also analyzed current program cost and expenditure data from DOE. More detail on our scope and methodology can be found in appendix II. We conducted our work between June 2003 and April 2004 in accordance with generally accepted government auditing standards.

Results in Brief

Since the program was transferred from DOD in December 2002, DOE (1) has developed an overall program plan to manage the construction of the two fossil fuel plants that emphasizes project planning, risk reduction, and periodic progress reviews by senior DOE officials; (2) has selected two U.S. contractors to oversee the construction of the replacement fossil fuel plants; and (3) is working with its U.S. contractors to review specific design and construction plans for the plants. DOE plans to complete plant construction by 2008 in Seversk and 2011 in Zheleznogorsk. There are 17 organizations involved in managing the program, providing technical assistance, and performing support tasks. In addition, there are numerous Russian subcontractors who will be responsible for manufacturing,

[8]Decommissioning of a nuclear power plant is the process of closing down a facility followed by reducing residual radioactivity to a level that permits the release of property for unrestricted use.

supplying, or installing equipment for the plants. DOE officials expressed concern that the number of organizations involved in the overall management of the program makes coordination difficult and has led to delays. For example, at Zheleznogorsk, the acquisition of the proposed site for the replacement fossil fuel plant was delayed for 9 months because of a dispute over the value of the land among the Ministry of Atomic Energy of the Russian Federation; the Mining and Chemical Combine, which is responsible for operating the reactor; and a local Siberian power utility. Additionally, DOE and U.S. contractor officials told us that the primary Russian contractor, Rosatomstroi, has not previously worked with U.S. contractors on large-scale construction projects and currently lacks enough staff to effectively implement its part of the program, overseeing the Russian subcontractors. Rosatomstroi officials told us that DOE's use of two U.S. contractors to oversee the projects is burdensome because it forces them to adapt to different management styles and reporting requirements. To help improve program management, DOE plans to hire a resident officer in charge of construction who will reside in Russia for the duration of the program. The resident officer's responsibilities will include (1) ensuring that contractual work is carried out, (2) providing daily reviews of contractor progress, (3) monitoring the quality of work being performed, and (4) assisting in early identification and resolution of problems.

Final shutdown of Russia's three plutonium production reactors is uncertain because DOE faces challenges in implementing its program, including (1) ensuring Russia's commitment to key nonproliferation and safety goals of the program, (2) clarifying the existing reactor shutdown agreement, and (3) working with Russia to find employment for the thousands of Russian nuclear workers who are currently employed at the reactors and related facilities. Regarding these challenges:

- DOE officials told us that Russia's recent rejection of its proposal to reduce the amount of plutonium being produced by the reactors raises serious questions about Russia's commitment to the fundamental nonproliferation goal of the program. DOE and Russian officials had identified options to reduce the reactors output of plutonium, including extending the period during the summer when the reactors are shut down for maintenance and refueling. However, in November 2003, the Ministry of Atomic Energy of the Russian Federation informed DOE that it did not wish to pursue this option and instead asked DOE to concentrate its efforts on accelerating the completion of the fossil fuel plants. DOE also planned to improve the safety of the reactors by

funding a $21 million effort consisting of 28 safety upgrade projects, including fire safety improvements and enhancements to emergency electrical power systems. However, in February 2004, the Ministry of Atomic Energy rejected DOE's planned assistance for safety upgrades and stated that it would undertake its own safety improvements. DOE officials told us that they were pessimistic about the likelihood that Russia would install any safety upgrades at the reactors.

- The existing reactor shutdown agreement does not specify the steps and period of time needed to complete the shutdown of the reactors, or the specific requirements that must be met to license and commission the replacement fossil fuel plants. Additionally, DOE and State officials told us that the shutdown dates in the agreement will have to be revised to reflect DOE's most recent planned construction schedule for the fossil fuel plants.

- DOE officials said that helping Russia find jobs for the thousands of nuclear workers who are currently employed at the reactors and related facilities and will be displaced when the reactors are shut down will be a major challenge. Although DOE officials told us that a failure to find jobs for these workers could threaten the success of the program, DOE has not developed a plan to coordinate the shutdown of the reactors with other DOE and State efforts designed to find employment for Russian nuclear workers.

As of December 31, 2003, DOE had spent $7.8 million, or about 4 percent of available funds, to begin work on planning and developing the program, including travel, overhead, project administration, and document translation costs. To date, DOE has had a slow rate of spending on program activities, which has led to a large balance of unobligated and unspent program funds. DOE officials expect the program's obligations and expenditures to increase significantly when the Seversk project moves from the design phase to the construction phase near the end of fiscal year 2004 and the Zheleznogorsk project moves into the construction phase in the second quarter of fiscal year 2005.

Additionally, DOE officials told us that they expect the costs to build the replacement fossil fuel plants to be significantly higher than their original estimates. The total cost to build the replacement fossil fuel plants, which DOE had earlier projected to be $466 million, remains uncertain, in part, because this estimate is based on Russian cost projections that DOE has not yet validated. However, according to DOE officials, the actual

construction costs for the plants are likely to be significantly higher than the original estimate and may be as much as $1 billion, because of a number of factors, including the high rate of inflation in Russia and higher than projected Russian labor costs. DOE and its contractors are currently reviewing the Russian cost projections and revising the preliminary cost estimate to reflect changes to the projects' schedule and scope. DOE plans to bear full financial responsibility for building the replacement fossil fuel plants, which will be designed and built by Russia. DOE, State, and National Security Council officials told us that the United States did not insist that Russia commit financial resources to building the plants out of concern that Russia might be unable to fulfill its financial obligations to the program, which would delay the shutdown of the reactors. Because the United States has agreed to fully fund the costs of the replacement plants, Russia has little incentive to control construction costs.

This report makes recommendations to improve the management of the program and increase its chance for success. Among other things, it recommends that DOE (1) reach agreement with Russia on the steps that must be taken to permanently shut down the reactors and what specific requirements must be met to complete the replacement fossil fuel plants, (2) amend the reactor shutdown agreement to reflect DOE's revised completion dates for the fossil fuel plants, (3) develop a plan and take steps to formally coordinate its program with existing DOE and Department of State programs to employ Russian nuclear workers, and (4) consider seeking financial support from Russia to construct the fossil fuel plants.

We provided draft copies of this report to the Departments of Energy and State for their review and comment. DOE agreed to implement our recommendations. State agreed with all of our recommendations except one that DOE should consider seeking financial support from Russia to construct replacement fossil fuel plants. DOE also expressed concern with our conclusion regarding this matter. Both agencies stated that relying on Russia to fund critical program elements would pose a significant risk. However, DOE agreed to pursue obtaining additional financial support from Russia provided it does not delay the program.

Background

During the Cold War, the United States and the Soviet Union built a total of 27 nuclear reactors to produce weapons-grade plutonium for nuclear weapons. Although all nuclear reactors produce plutonium as a byproduct of their operation, plutonium production reactors are specifically designed to produce a concentrated isotope of plutonium that is more readily used in

nuclear weapons. (See app. III for additional information about the plutonium production nuclear fuel cycle.) The United States constructed 14 plutonium production reactors of which only one, the N-reactor at Hanford, Washington, produced electricity in addition to weapons-grade plutonium. This reactor was shut down in 1987 for safety upgrades following the Chernobyl accident and never resumed operation. The United States had shut down all of its plutonium production reactors by 1989.

The Soviet Union built 13 plutonium production reactors, and all but 3 have been shut down. (For a time line showing the history of these reactors and efforts to bring about their closure, see app. IV.) The three remaining reactors began operating between 1964 and 1968, and U.S. and Russian nuclear experts told us that these reactors are among the most dangerous in the world due to their age and poor design. In addition, the reactors lack safety features such as a containment structure, which is generally a steel-lined concrete, dome-like structure that serves as a barrier to the release of radioactive material during an accident. The lack of containment presents a greater risk for the two reactors at Seversk because, unlike the reactor at Zheleznogorsk, which is located inside a mountain, the Seversk reactors are above ground. Figure 1 shows the location of the Russian reactors.

Figure 1: Location of Russia's Three Plutonium Production Reactors



Sources: GAO and DOE.

According to Russian officials in Seversk, the two reactors currently provide about 70 percent of the heat and electricity for the city's residents. However, the reactors have the capacity to produce more heat and electricity than is needed to meet the demands of Seversk's residents, and both heat and electricity have been sold to the nearby city of Tomsk since 1973. Officials in Zheleznogorsk told us that the reactor there provides 60 percent of the city's heat and 98 percent of its electricity. The amounts of replacement heat and electricity that the United States and Russia agreed to in the March 2003 reactor shutdown agreement are less than what is currently provided by the reactors, but Russian officials from both cities told us the agreed upon amounts would be sufficient to meet their needs once the reactors are shut down.

Commissioned in the mid-1960s, the three reactors have continued to operate although, according to Russian officials, they were originally designed to have an operating life of 20 years. Officials from Russia's nuclear regulatory agency, Gosatomnadzor, told us that since the 1960s, there have been at least three serious accidents and several minor incidents at one of the Seversk reactors. For example, in 1966, a coolant pipe ruptured, resulting in the release of contaminants into the atmosphere near the reactor site. Subsequently, the same reactor experienced a partial meltdown that damaged part of the core. Finally, in 1999, the reactor experienced another serious incident when spent fuel was ejected onto the top of the reactor.

DOE Has Overall Program Plan in Place, but the Large Number of Organizations Involved in the Program Could Delay Progress

Since the program was transferred from DOD to DOE in December 2002, DOE (1) has developed an overall program plan to manage the construction of the fossil fuel plants, (2) has selected two U.S. contractors to oversee work on the replacement fossil fuel plants, and (3) is working with its U.S. contractors to review design and construction plans for the plants. DOE plans to complete refurbishment of the plant in Seversk by 2008 and construction of the plant in Zheleznogorsk by 2011. However, U.S. and Russian officials expressed concern that the large number of U.S. and Russian organizations, 17, involved in the overall management of the program makes coordination difficult and has led to delays. Additionally, DOE and U.S. contractor officials told us that the primary Russian contractor, Rosatomstroi, has not previously worked with U.S. contractors on large-scale construction projects and currently lacks enough staff to effectively implement its part of the program, overseeing the Russian subcontractors, which could lead to delays.

DOE Developed an Overall Plan to Manage the Program, Hired Contractors, and Is Reviewing Specific Design and Construction Plans for the Fossil Fuel Plants

DOE has developed an overall management plan for its program that (1) emphasizes detailed project planning, (2) seeks to identify project risks, and (3) develops alternative strategies to reduce risks. The program management elements in DOE's plan are detailed in DOE order 413.3, which the department uses for construction projects and the acquisition of capital assets in the United States. Under DOE order 413.3, the program will move through five critical decision points, the major stages of design and construction, upon the approval of DOE's Deputy Secretary. These critical decisions are formal determinations that allow the project to proceed to the next phase and commit additional resources. Critical decisions are required during the planning and execution of a project, for example, before beginning conceptual design,[9] before starting construction, and when beginning operations. (For more detailed information about DOE's management plan, see app. V.)

DOE has also selected two U.S. contractors to oversee work on the two plants. In mid-2003, DOE awarded contracts to (1) Washington Group International (WGI) to oversee Russia's refurbishment of an existing fossil fuel plant at Seversk and (2) Raytheon Technical Services (Raytheon) to oversee Russia's construction of a new fossil fuel plant at Zheleznogorsk. These contracts cover the preliminary design phase of the projects. DOE plans to evaluate the performance of both contractors at the conclusion of the preliminary design phase. According to DOE, an extension or new contract would be required to cover the final design phase, construction, and closeout phases. In addition, DOE employs the National Energy Technology Laboratory, a DOE national laboratory that has historically focused on the development of advanced technologies related to coal and natural gas, to accomplish various management support tasks.

Finally, DOE, together with its contractors, is reviewing the detailed design and construction plans that Russian subcontractors are developing for the fossil fuel plants at Seversk and Zheleznogorsk. At Seversk, DOE plans to refurbish an existing fossil fuel plant, which was built in 1953. To meet the heat and electricity production levels specified in the March 2003 agreement, DOE plans to replace one boiler (boilers burn coal to produce heat and steam); upgrade the plant's 12 existing boilers to improve their

[9]Conceptual design is the concept for meeting a mission need. The conceptual design process requires a mission need as an input. Concepts for meeting the need are explored and alternatives considered arriving at the set of alternatives that are technically viable, affordable, and sustainable.

efficiency and performance; and replace three turbine-generators, which use the steam produced by the boilers to generate electricity. (See app. VI for more information about the operation of coal-fired power plants.) In addition, DOE plans to improve the infrastructure at the plant by, among other things, enhancing the coal-handling system and improving the plant's water chemistry system. DOE plans to complete the refurbishment of the fossil fuel plant at Seversk by 2008. At Zheleznogorsk, DOE plans to construct a new fossil fuel power plant that is powered by coal to meet the heat and electricity production levels specified in the March 2003 agreement. This new plant is scheduled for completion in 2011. Since the plants are being built to Russian standards, DOE plans to use Russian environmental, safety, and health standards in the construction of the fossil fuel plants rather than U.S. standards. However, in addition to satisfying all Russian regulations, DOE's contractors are responsible for identifying potential environmental concerns resulting from emissions at the plants and comparing the Russian environmental standards with applicable international standards.

Concerns Exist About the Large Number of Program Participants and the Primary Russian Contractor's Lack of Experience and Staff

We identified 17 U.S. and Russian organizations that are participating in the program. In total, these organizations have a variety of roles and responsibilities, including setting policy and direction, providing technical assistance, and managing and overseeing the program. In addition, there are numerous Russian subcontractors who will be responsible for supplying, manufacturing, or installing equipment for the replacement fossil fuel plants. Specifically, in addition to DOE, the U.S. organizations participating in the program include the following:

- The National Nuclear Security Administration, a separately organized agency within DOE that oversees the program;
- Washington Group International is DOE's primary integrating contractor for refurbishing the Seversk replacement fossil fuel plant;
- Raytheon Technical Services is DOE's primary integrating contractor for building the Zheleznogorsk plant. Raytheon has subcontracted some of its work to the U.S. construction firm Fluor;
- The National Energy Technology Laboratory performs various management support tasks for DOE and has two primary subcontractors, Energy and Environmental Solutions and Concurrent Technologies Corporation, which provide management support to

DOE's program. Additionally, Concurrent Technologies Corporation subcontracts some work on the program to Parsons; and

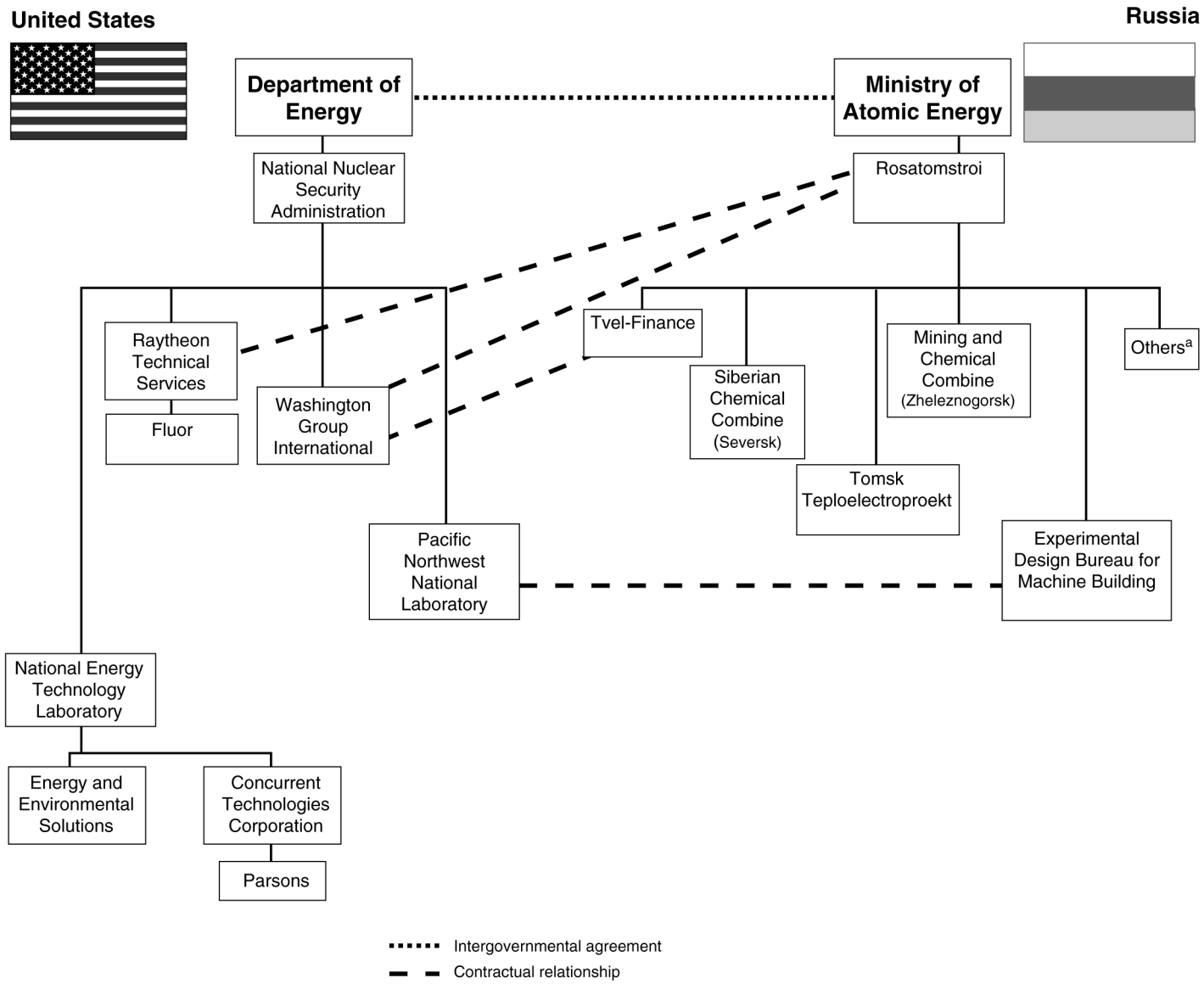
- PNNL had been the lead contractor for DOE's planned Nuclear Safety Upgrades Project. Though this project was cancelled in February 2004, PNNL will still have limited participation in developing a reactor shutdown plan.

In addition to MINATOM, numerous Russian participants in the program include the following:

- Rosatomstroi, the primary Russian contractor working for MINATOM on building the replacement fossil fuel plants;
- Tvel-Finance supports WGI on the Seversk fossil fuel plant project and is a subcontractor to Rosatomstroi;
- The Siberian Chemical Combine in Seversk operates the two reactors there and owns the fossil fuel plant that DOE plans to refurbish;
- Tomsk Teploelectroproekt is a subcontractor to Rosatomstroi and is responsible for developing the refurbishment design for the replacement fossil fuel plant at Seversk;
- The Mining and Chemical Combine operates the reactor in Zheleznogorsk; and
- The Experimental Design Bureau for Machine Building (OKBM) was involved in the development of many of DOE's planned safety upgrades for the reactors and is involved in developing the reactor shutdown plan.

Figure 2 shows the relationships between key program participants.

Figure 2: Organizational Relationships in DOE's Elimination of Weapons-Grade Plutonium Production Program



Sources: GAO; Nova Development (clip art).

[a]Other Russian subcontractors include additional design institutes and manufacturers of parts and equipment for the replacement fossil fuel plants.

DOE officials told us that the numerous organizations involved in managing this complex program makes coordination difficult and has led to delays. For example, at Zheleznogorsk, the acquisition of the proposed site to build the replacement fossil fuel plant was delayed for 9 months because a dispute over the value of the land among MINATOM; the Mining and Chemical Combine, which is responsible for operating the reactor; and a local Siberian power utility. Raytheon officials told us that the project experienced a "day-to-day" slippage while the land acquisition issue remained unresolved. To improve program management, DOE plans to hire a resident officer in charge of construction who will reside in Russia for the duration of the program. Specifically, the resident officer's responsibilities will include (1) ensuring that contractual work is carried out, (2) providing daily reviews of contractor progress, (3) monitoring the quality of work being performed, and (4) assisting in early identification and resolution of construction problems.

DOE and U.S. contractor officials also told us that the primary Russian contractor, Rosatomstroi, has not previously worked with U.S. contractors on large-scale construction projects and does not currently have staff to effectively implement its part of the program, which may lead to additional program delays. Rosatomstroi was created in 2002 and has a limited budget and little authority to make decisions on behalf of the Russian government without the approval of MINATOM. Because MINATOM designated Rosatomstroi as the primary Russian integrating contractor, DOE must rely on Rosatomstroi to manage Russia's part of the program, which includes overseeing the numerous Russian subcontractors. Rosatomstroi officials told us in September 2003 that they had 8 employees dedicated to the program but that they plan to add about 40 additional staff as the Seversk and Zheleznogorsk fossil fuel plant projects progress from the design phase to construction. Officials from both U.S. contractors said that one of their most difficult initial tasks has been to mentor Rosatomstroi personnel on project management and Western business practices. WGI officials told us that this task has taken much-needed time away from other planning aspects of the Seversk project. For their part, Rosatomstroi officials expressed concern that DOE's use of two U.S. integrating contractors to provide day-to-day project oversight is burdensome because it forces them to adapt to different management systems and reporting requirements.

Despite their efforts to develop a sound management structure, DOE officials told us that successful program implementation ultimately depends on Russia's commitment and cooperation. A recent assessment of DOE's program by the Office of Management and Budget (OMB) reinforces

the need for Russia's cooperation to improve the program's chances for success.[10] OMB pointed out that DOE must rely on Russia to create conditions that will not limit the effectiveness and efficiency of the program to shut down the reactors. Furthermore, OMB stated that Russia's creation of these conditions is largely out of DOE's control and is a potential flaw in the structure of the program. However, a Department of State official told us that he believes Russia has every incentive to cooperate in the program because shutting down the reactors and obtaining replacement heat and electricity sources is in Russia's interest.

DOE Faces Challenges in Its Efforts to Shut Down the Reactors, Including Obtaining Russia's Support to Implement Key Nonproliferation and Safety Initiatives

Final shutdown of Russia's three plutonium production reactors is uncertain because DOE faces challenges in implementing its program. Perhaps the most important of these challenges is ensuring Russia's commitment to key aspects of the program. Russia's recent rejection of DOE's initiatives to reduce the amount of plutonium being produced by the reactors and to improve the safety of the reactors prior to their shutdown raises serious questions about Russia's commitment to the fundamental nonproliferation and safety goals of the program. A second challenge DOE faces is that the existing reactor shutdown agreement does not specify the steps needed to complete the shutdown of the reactors and the specific requirements that must be met to license and commission the replacement fossil fuel plants. Furthermore, the agreement contains shutdown dates that are not realistic. Finally, thousands of Russian nuclear workers who are currently employed at the reactors and related facilities will be displaced when the reactors are closed. Although DOE officials told us that a failure to find jobs for these workers could threaten the success of the program, DOE has not developed a plan to coordinate the shutdown of the reactors with other DOE and Department of State efforts designed to find employment for Russian nuclear workers.

[10]*Department of Energy PART [Program Assessment Rating Tool] Assessments*, Office of Management and Budget (Washington, D.C.: February 2004). We recently reported on the Office of Management and Budget's Program Assessment Rating Tool in *Performance Budgeting: Observations on the Use of OMB's Program Assessment Rating Tool for the Fiscal Year 2004 Budget*, GAO-04-174 (Washington, D.C.: January 30, 2004).

Russia Rejected DOE's Proposal to Reduce the Amount of Plutonium Produced by the Reactors in the Interim before They Are Shut Down

The main nonproliferation goal of DOE's program is to stop Russia's production of weapons-grade plutonium. Because closure of the reactors will not occur until the fossil fuel plants are built and suitable heat and electricity sources are provided, DOE and MINATOM discussed interim measures to reduce the amount of plutonium produced by the reactors before they are shut down, as well as measures to accelerate the reactors' shutdown. According to DOE officials, Russia's support for this initiative would have clearly signaled a commitment to the nonproliferation goal of the program. In July 2003, DOE and Russian officials identified three options to reduce the reactors' output of plutonium while the replacement fossil fuel plants are being built: (1) extending the period during the summer when the reactors are shut down for maintenance and refueling, (2) shutting down one of the two reactors at Seversk once the refurbishment of the fossil fuel plant reaches an agreed-upon level of completion, and (3) shutting down the reactor at Zheleznogorsk before the fossil fuel plant is completed but after it is able to supply an adequate amount of heat to the city. DOE believed that pursuing all of the reduction options could reduce the amount of weapons-grade plutonium produced by the reactors before their planned shutdown dates by up to 25 percent, or one-third metric ton, annually.

DOE officials told us that the first option, extending summer outage periods, held the greatest promise for reducing plutonium production at the earliest possible date, which DOE believed could occur in the summer of 2004. Russian reactor officials in Zheleznogorsk told us that extending summer outage periods would be the easiest option to reduce the production of plutonium. Because the initiative to reduce the production of plutonium is outside the scope of DOE's program to build replacement fossil fuel plants, DOE obtained funding from the Department of State's Nonproliferation and Disarmament Fund to support the estimated $380,000 cost of studying the three plutonium production reduction options.[11] DOE also planned to solicit participation from other countries to help fund these efforts.

In November 2003, the First Deputy Minister of MINATOM stated in a letter to DOE that Russia no longer wanted to explore the possibility of reducing the amount of plutonium produced while the reactors continue to operate

[11]The Department of State's Nonproliferation and Disarmament Fund sponsors specific projects that address high-priority opportunities to halt the proliferation of weapons of mass destruction and other related nonproliferation problems.

and that pursuing such options could affect the time frame of closing the reactors. According to the letter, "[Russia does] not find it worthwhile to waste efforts on a project for reducing plutonium production prior to the permanent shutdown of the reactors." The letter also stated that Russia's main objective was to shut down the reactors as soon as possible. In response to the letter, DOE is no longer pursuing extending summer outages at the reactors as an option for reducing the amount of plutonium produced. A Department of State official told us that Russia's decision to reject this proposal was likely based on its security concerns about providing U.S. personnel with access to the reactors for the purpose of monitoring and verifying the reduced amount of plutonium that would be produced.

In December 2003, MINATOM requested that DOE fund a study to examine the possibility of shutting down one of the Seversk reactors prior to the completion of the replacement fossil fuel plant. To achieve the early closure of one of the reactors, MINATOM proposed that the refurbishment of the Seversk plant could be accelerated through the advanced procurement of certain major components such as the boiler. However, unlike extending the summer outage periods, this option could not be implemented in mid-2004.

DOE Canceled Its $21 Million Program to Improve the Safety of the Reactors after Russia Rejected DOE's Proposed Assistance

As part of the reactor shutdown agreement, DOE pledged to improve the safe operation of the reactors; and to accomplish this goal, DOE planned to fund a $21 million effort, consisting of 28 safety upgrade projects—such as fire safety system improvements, enhancements to emergency electrical power systems, and risk assessments. DOE selected PNNL to oversee the installation of the safety projects. DOE's original plan called for work on the upgrade projects, including design work and contracting activities, to take place during a 24-month period—beginning in mid-2003 and ending by mid-2005—in order to maximize the benefits of the safety enhancements before the reactors are shut down. (See app. VII for a summary of DOE's planned safety upgrade projects.)

However, the start of the program was delayed for several months because the United States and Russia were unable to agree on the amount of background information that Russia required of U.S. workers to submit for Russia's national security review purposes before they would be granted access to the reactors. In February 2004, the failure to resolve this issue led MINATOM to reject DOE's planned assistance to improve the safety of the reactors and instead to say it would undertake necessary safety

improvements on its own. As a result, DOE officials told us they were canceling the safety upgrade project and are considering several options to transfer the remaining unspent project funds to other program areas, including accelerating the completion of the replacement fossil fuel plant at Zheleznogorsk.

DOE's Assistant Deputy Administrator, Office of International Nuclear Safety and Cooperation, told us that he was very pessimistic that Russia would perform the safety upgrades. Additionally, he noted that even if Russia decides to install the upgrades, they may not be of sufficient quality or quantity to reduce the risk posed by the reactors' continued operation. A PNNL program official also expressed doubt that Russia would pursue upgrading the reactors. He noted that without DOE's planned safety upgrades, the reactors would continue to deteriorate until they are finally shut down. None of the reactors would be licensed for operation in the United States or Western countries because they lack modern safety controls, and at least one reactor has experienced structural damage causing obstructions in the channels where control rods are inserted in case the reactor must be shut down in an emergency. The control rods are devices used to control the rate of nuclear reactions in a reactor. In the view of the PNNL official, it is likely that all three reactors have experienced such damage.

The deteriorating safety conditions present a greater danger at the two Seversk reactors than at Zheleznogorsk, because unlike the Zheleznogorsk reactor, the reactors at Seversk are located above ground. Furthermore, one of the Seversk reactors has experienced multiple accidents, including one that resulted in the expulsion of fuel elements onto the top of the reactor in 1999. Based on our analysis, the reactors are showing the wear of having been run for a very long time at a high output. The danger that these reactors present is the risk of a catastrophic reactor failure—such as a loss of coolant accident—which would result in a fire expelling the highly enriched uranium fuel and its fission byproducts such as plutonium and strontium-90, all of which are highly toxic and carcinogenic. The danger from such a fire is that radioactive particles would be dispersed and breathed into the body, causing either kidney damage from particles of uranium or cancer from particles of strontium-90 and plutonium. (For our technical analysis of the safety problems posed by the reactors, see app. VIII.)

Regardless of the safety condition of the reactors, Russian officials stated that they plan to run the reactors until replacement energy is provided to

the residents of Seversk and Zheleznogorsk. Because winter temperatures in the region of the cities can reach -40 degrees Fahrenheit, officials from Gosatomnadzor told us that they would continue issuing operating licenses to the reactors each year unless a "calamity" occurred.

The Reactor Shutdown Agreement Does Not Clearly Specify What Is Required to Shut Down the Reactors and Contains Unrealistic Shutdown Dates

Although the current agreement calls on Russia to shut down the reactors when the replacement fossil fuel plants produce a certain amount of heat and electricity, it does not specify what steps are needed to shut down the reactors;[12] how long it will take to shut down the reactors; or the process for and time required to license and commission the replacement fossil fuel plants. DOE indicated that agreeing on these issues and developing a specific plan of action to complete the program is critical to success. As a result, DOE initiated discussions with Russia to develop a reactor shutdown plan that will detail the activities needed to shut down the reactors and commission the fossil fuel plants. Additionally, the reactor shutdown plan will analyze expenses associated with shutting down the reactors.

Further, the current agreement contains shutdown dates that are unrealistic and do not reflect DOE's planned completion dates for the replacement fossil fuel plants. Under the March 2003 agreement, the United States and Russia agreed that the two reactors in Seversk and the reactor in Zheleznogorsk would stop producing plutonium by December 31, 2005, and December 31, 2006, respectively. However, according to DOE, Department of State, and Russian officials, these dates are no longer realistic because DOE does not plan to complete the replacement fossil fuel plant in Seversk until 2008 or the plant in Zheleznogorsk until 2011. Russian officials have reiterated that they will not shut down the reactors until the agreed-upon replacement power and heat generating capacity are provided by the United States. DOE and Department of State officials told us that the current agreement would be amended to reflect DOE's planned schedule for the completion of the fossil fuel plants once project designs are completed. Failure to secure specific agreement on these changes could put program success at risk as it has for other U.S. nonproliferation efforts.

[12]Under the 1997 Plutonium Production Reactor Agreement, once the reactors are shut down, they will be sealed and inspected annually by U.S. officials to ensure that they remain permanently shut down.

Specifically, in the past, some U.S. nonproliferation efforts that were dependent on Russian cooperation have been canceled or adversely affected in part because of a lack of specific agreements and coordination between relevant U.S. and Russian organizations. Notable examples include two large-scale construction projects in Russia that were managed by DOD under the Cooperative Threat Reduction (CTR) program—a facility to dispose of liquid propellant used to fuel Russian ballistic missiles at Krasnoyarsk and the Fissile Material Storage Facility at Mayak.[13] In both cases, DOD did not secure specific provisions in the agreements that addressed all program risks to the projects.

- In 1993, DOD agreed to help Russia dispose of liquid propellant used to fuel Russian ballistic missiles and eventually agreed to finance the construction of a disposal facility. In February 2002, after $96 million had been spent on the project, DOD officials learned that Russia had used the liquid propellant in its space program but had failed to notify DOD. As a result, DOD canceled construction of the facility and terminated the project. The DOD Inspector General found that Russia used the rocket fuel without DOD's knowledge because the agreements with Russia did not require it to provide the fuel to DOD for disposal and did not provide DOD with access rights over the fuel's storage.[14]

- In another case, the United States agreed to build a storage facility in Mayak, Russia, for fissile materials, including highly enriched uranium and plutonium. However, the agreement did not provide DOD with rights to verify the source of the fissile material to be stored in the facility, nor did it specify the amount or type of fissile material Russia was required to deposit in the facility. By July 2003, DOD had spent $372.8 million on fissile material containers and the design and construction of the facility. However, in July 2003, MINATOM notified DOD that Russia would store only 25 metric tons of plutonium at the facility, while converting its highly enriched uranium into low enriched uranium to sell to the United States for use in civilian nuclear power

[13]The CTR program was authorized by Congress in 1991. Under this authorization, DOD provides assistance to nations of the former Soviet Union to (1) destroy their weapons of mass destruction, (2) safely store and transport the weapons in connection with their destruction, and (3) reduce the risk of the proliferation of such weapons.

[14]*Cooperative Threat Reduction: Cooperative Threat Reduction Program Liquid Propellant Disposition Project;* DOD-2002-154: Department of Defense, Office of the Inspector General (Arlington, VA: September 30, 2002).

plants. As a result, only one-fourth of the facility's storage capacity will be used.[15]

The DOD Inspector General concluded that for future CTR projects, implementing agreements should be negotiated that would "require Russia to provide the United States with all the necessary resources to assure that assistance is used for intended purposes." As a result of congressional concern and in response to recommendations from the DOD Inspector General, the CTR program has taken several steps to protect the investment of U.S. funds and improve program oversight, including replacing good faith obligations from Russia with specific legal commitments before proceeding with any current or future CTR projects.

DOE Has Not Developed a Plan to Coordinate the Shutdown of the Reactors with Other U.S. Efforts to Employ Thousands of Displaced Russian Nuclear Workers

DOE officials told us that worker transition issues at Seversk and Zheleznogorsk have the potential to undermine efforts to shut down the reactors and present major challenges for the program. In July 2002, Russia's First Deputy Minister of Atomic Energy said that the most "acute" problem in downsizing Russia's nuclear weapons complex was at Zheleznogorsk, where the closure of the reactor would lead to the loss of 5,000 to 7,000 jobs in a city where other employment opportunities are limited. He also predicted that the closure of the two reactors in Seversk would lead to the loss of 5,000 to 6,000 additional jobs. Russian officials from both Seversk and Zheleznogorsk told us that finding jobs for displaced workers is their highest priority. Although these officials recognize that Russia is primarily responsible for employing these workers, they are seeking assistance from the United States to help address this problem.

Since many Russian nuclear workers have highly specialized experience manufacturing and processing weapons-grade nuclear material, their unemployment poses a significant proliferation risk because they might sell sensitive nuclear information to terrorists or countries of concern. Specifically, many nuclear workers in Seversk and Zheleznogorsk possess knowledge and skills in machining nuclear material and manufacturing nuclear weapons. Since 2001, Congress has appropriated about $40 million each year to support DOE's efforts to assist Russia in finding employment

[15]*Cooperative Threat Reduction: Cooperative Threat Reduction Construction Projects;* DOD-2004-039; Department of Defense, Office of the Inspector General (Arlington, VA: December 18, 2003).

for its displaced nuclear workers through the Russian Transition Initiatives (RTI) program. The RTI program is comprised of two nonproliferation programs, the Nuclear Cities Initiative (NCI), which currently has some projects in Zheleznogorsk, and the Initiatives for Proliferation Prevention (IPP), which has a few projects in both cities. Both the NCI and IPP programs seek to prevent the proliferation of nuclear weapons knowledge from unemployed Russian nuclear weapons scientists—a problem known as "brain drain."[16] As directed by the Congress, the NCI program works in 3 of Russia's 10 closed nuclear cities: Snezhinsk, Sarov, and Zheleznogorsk. The IPP program can work in all of the closed nuclear cities. From 1999 to 2003, the NCI program spent about $15.7 million on 23 projects in Zheleznogorsk. During the same period the IPP program sponsored one project in Zheleznogorsk costing about $1.8 million and one project in Seversk that cost $1.2 million. However, NCI has not initiated any new projects since September 2003 because the government-to-government agreement guiding the program expired. The agreement has not been renewed because the United States and Russia have not agreed upon legal protections regarding liability claims that could be brought against the United States, its contractors, and their employees.

DOE's office that administers the reactor shutdown program (Office of International Nuclear Safety and Cooperation) and the DOE office that is responsible for the RTI program (Office of Nonproliferation and International Security) have begun to coordinate their efforts, which include attending regular meetings and planning for joint trips to the cities. However, as of April 2004, DOE had not developed a plan to formally coordinate the department's program to facilitate the shutdown of the reactors with the ongoing DOE efforts to help Russia find employment for its displaced nuclear workers. DOE officials from both program offices told us they are starting to draft a joint action plan to address Russian workforce transition issues related to the shutdown of the plutonium production reactors. In addition, DOE is working with Swiss officials to organize an international conference to discuss potential employment projects at Seversk and Zheleznogorsk.

[16]For more information, see U.S. General Accounting Office, *Nuclear Nonproliferation: Concerns With DOE's Efforts to Reduce the Risks Posed by Russia's Unemployed Weapons Scientists*, GAO/RCED-99-54 (Washington, D.C.: February 19, 1999) and *Nuclear Nonproliferation: DOE's Efforts to Assist Weapons Scientists in Russia's Nuclear Cities Face Challenges*, GAO-01-429 (Washington, D.C.: May 3, 2001).

Additionally, the United States and several other countries fund the International Science and Technology Center (ISTC) program.[17] This program supports science centers in Russia and Ukraine and focuses on paying nuclear, chemical, and biological weapons scientists to conduct peaceful research in a variety of areas, such as developing new anticancer drugs, improving nuclear safety, and enhancing environmental cleanup techniques. The Department of State is responsible for implementing the program on behalf of the U.S. government and chairs an interagency group that conducts a policy review of all project proposals submitted for funding. As of March 2004, ISTC had three active projects in Seversk and Zheleznogorsk. According to DOE officials, DOE has not coordinated with the ISTC program on workforce issues related to the shutdown of the plutonium production reactors. They noted that DOE views the shutdown effort as a departmental initiative although DOE plans to seek support from other countries in its efforts to find employment opportunities for displaced workers. Department of State officials told us that clearer agreement on the problem and a coordinated U.S. government approach was needed before the ISTC could be used to address worker displacement issues at Seversk and Zheleznogorsk. They also stated that they are prepared to use the ISTC program in coordination with other U.S. efforts to address the problem.

DOE Has Spent Only a Small Portion of Available Program Funds, and Total Program Costs Are Likely to Be Significantly Higher Than DOE's Original Estimates

As of December 31, 2003, DOE had spent $7.8 million, about 4 percent of the funds available, to begin work on planning and developing the program. In addition, DOE officials told us that they expect the final cost of the program to be significantly higher than their initial estimate. DOE's slow rate of spending on program activities has led to about $179.1 million in unobligated and unspent funds. Furthermore, the cost to build the replacement fossil fuel plants, which DOE had projected to be $466 million, is uncertain because the estimate is based on Russian cost projections that DOE has not yet validated. According to DOE officials, the actual construction costs for the plants are likely to be significantly higher than the original estimate, possibly as much as $1 billion. DOE and its contractors are currently revising the preliminary estimate to reflect changes in the projects' schedule and scope.

[17]For more information, see U.S. General Accounting Office, *Weapons of Mass Destruction: State Department Oversight of Science Centers Project*, GAO-01-582 (Washington, D.C.: May 10, 2001).

DOE's Slow Rate of Spending on the Program Has Led to a Large Balance of Unspent and Unobligated Funds

As of December 31, 2003, DOE had unobligated funds totaling $137.9 million and an additional $41.2 million that has been obligated, but not yet spent. Together, these funds represent DOE's total carryover balance of $179.1 million, which represent about 96 percent of the funds available for the program. As table 1 shows, through December 31, 2003, DOE had received $186.9 million in funding for the program but had only spent about $7.8 million of these available funds to begin work on planning and developing the program. Specifically, DOE indicated that these funds were mainly spent on planning and developing the program and include travel, overhead, project administration, and document translation costs.

Table 1: Obligations and Expenditures for DOE's Elimination of Weapons-Grade Plutonium Production Program through December 31, 2003

Dollars in millions

Recipient of funding	Funds available[a]	Unobligated funds	Funds obligated	Funds obligated but not spent	Funds obligated and spent
DOE/Non-project specific[b]	$139.7	$137.9	$1.8	$0.8	$1.0
National Energy Technology Laboratory	8.5	0	8.5	5.3	3.2
Pacific Northwest National Laboratory[c]	21.5	0	21.5	20.1	1.4
Washington Group International	3.9	0	3.9	2.8	1.1
Raytheon Technical Services	13.3	0	13.3	12.2	1.1
Total	**$186.9**	**$137.9**	**$49.0**	**$41.2**	**$7.8**

Source: DOE.

Note: Figures have been rounded.

[a]The total funds available for the program includes $50 million in newly appropriated fiscal year 2004 funding, but excludes any general reductions and rescissions which had not been incorporated as of December 2003.

[b]The DOE/Non-project specific category includes efforts for crosscutting activities (i.e., technical support activities) and funds available at headquarters not yet sent to the field for a specific project or task.

[c]Funds available for PNNL include $4.0 million appropriated to the International Nuclear Safety Program in a fiscal year 2002 emergency supplemental appropriation (P.L. 107-206) but supports the program objectives for the Nuclear Safety Upgrades Project. In February 2004, DOE cancelled its

planned Nuclear Safety Upgrades Project at the request of Russia. DOE is examining options for using the unspent funding for this effort in other program areas.

According to DOE officials, three major factors account for DOE's current carryover balances:

- After management of the program was transferred from DOD to DOE in December 2002, DOE received $74 million in unspent program funding from DOD. These funds were in addition to DOE's appropriations for the program.

- According to DOE and U.S. industry officials, large-scale construction projects require "front end" funding because construction projects are executed over several years. DOE officials expect the program's obligations and expenditures to increase significantly when the Seversk project moves from the design phase to the construction phase near the end of fiscal year 2004 and the Zheleznogorsk project moves into the construction phase in the second quarter of fiscal year 2005.

- Difficulties and unforeseen delays are frequently associated with doing work in Russia.

Large carryover balances are not uncommon for DOE nonproliferation programs in Russia. In March 2003, DOE reported that its nuclear nonproliferation programs had a total carryover balance of almost $460 million. DOE indicated that the large carryover amounts were due to difficulties in negotiating and executing contracts with Russia and the multiyear nature of these programs.

Despite the program's large carryover balance, DOE has requested an additional $50.1 million for the program in fiscal year 2005. Specifically, the request includes $39.5 million for the Seversk fossil fuel plant construction, about $9.6 million for the Zheleznogorsk plant, and $1 million for technical support activities. In addition, DOE's fiscal year 2005 budget projects the annual budget requests for fiscal years 2006 through 2009 to be between $56 million and $66.9 million.

Total Cost to Build the Replacement Fossil Fuel Plants May Be as Much as $1 Billion

In April 2003, DOE estimated that it would cost $466 million to build the replacement fossil fuel plants. DOE estimated that the plant at Seversk would cost about $172 million and the Zheleznogorsk plant would cost

approximately $295 million.[18] However, because DOE's estimates are based on Russian cost projections developed between 2000 and 2001, which DOE has not validated, the final cost to build the replacement fossil fuel plants is uncertain. According to DOE officials, revised cost estimates are currently being developed by DOE's contractors and are likely to be significantly higher than the original estimate, possibly totaling as much as $1 billion. For example, the original estimate did not include the costs of U.S. and Russian integrating contractors. Several other factors contributing to the projected cost increase include the high rate of inflation in Russia, higher than expected Russian labor and overhead rates, and unanticipated problems with the design plans for both plants. For example, DOE officials told us that the initial cost estimates for the Seversk plant were based on an existing Russian design for the refurbishment, which DOE believed to be at an advanced stage. However, after DOE and WGI began examining the design documents, they found that much of the design was incomplete. As a result, Russian contractors will perform additional design work, which will contribute to increased project costs. As more of the design work is completed, refined overall cost and schedule estimates will be developed for the plants. According to DOE, firm cost estimates will be provided to the Congress by the end of 2004.

DOE plans to fund the entire cost of the replacement fossil fuel plants, which will be based on a Russian design and constructed by Russian contractors. DOE, Department of State, and National Security Council (NSC) officials told us that the United States did not insist that Russia commit resources to building the plants when the March 2003 reactor shutdown agreement was signed. NSC and Department of State officials noted that the United States was concerned that Russia would not be able to fund its part of the effort, and it did not want the program to be subject to the unpredictability of the Russian budgetary process, which could delay the program. The Department of State official also noted that the U.S. government decided that the U.S. interest in pursuing the objective of the earliest possible shutdown of the reactors overrode its interest in a potentially fairer allocation of costs for building the replacement fossil fuel plants. DOE officials pointed out that Russia will be responsible for the maintenance and operation of the plants once they are completed and that Russia is sacrificing some electricity production capacity because the replacement fossil fuel plants will not produce as much electricity as the reactors. DOE considers these Russian efforts as "in-kind" contributions.

[18]DOE's cost estimates for the replacement fossil fuel plants have been rounded.

Cost increases and schedule delays are not uncommon for U.S. nonproliferation programs in Russia. For example, the United States has had difficulties with past major construction projects in Russia, such as the Chemical Weapons Disposal Facility at Shchuch'ye, and many of these projects have experienced dramatic cost increases, significant delays, or other major setbacks.[19] At Shchuch'ye, DOD is assisting Russia by building a chemical weapons destruction facility. As a result of changes in the project's scope and other factors, the estimated cost for the project increased from about $750 million to about $1.04 billion. Congressional concern over Russia's financial commitment to the project led to a congressional mandate that Russia commit at least $25 million annually toward its chemical weapons destruction activities.

Conclusions

DOE's effort to secure the shutdown of Russia's three plutonium production reactors is a critical nonproliferation program because it seeks to eliminate the production of weapons-grade plutonium. However, implementing this complex and technically challenging program is becoming an increasingly risky undertaking for DOE. Some actions that Russia has taken raise serious questions about its commitment to the nonproliferation and safety-related goals of DOE's program. We believe, as do some DOE officials, that Russia could have demonstrated good faith by reducing the amount of plutonium produced by the reactors in the period before they are shut down. This could have been accomplished by extending the amount of time the reactors are shut down for maintenance during the summer months—a proposal that Russian officials told us could be easily accomplished. However, Russia informed DOE that it had no interest in pursuing this opportunity. While Russia's unwillingness to consider this proposal represents a setback, we believe that extending the summer outage periods for the reactors furthers U.S. nonproliferation objectives and would meet an important national security goal. In addition, DOE was willing to spend over $20 million to improve the safety of these reactors, which have been characterized as being among the most unsafe reactors operating today. In this case, Russia also rejected DOE's planned assistance to improve the reactors' safety and claims that it will make its own safety improvements. We believe that the continued operation of these

[19]We reported on problems with the Shchuch'ye facility in April 1999. For more detailed information, please see U.S. General Accounting Office, *Weapons of Mass Destruction: Effort to Reduce Russian Arsenals May Cost More, Achieve Less Than Planned*, GAO/NSIAD-99-76 (Washington, D.C.: April 13, 1999).

reactors, given their current age and condition, presents a significant and growing safety risk. Without implementing DOE's proposed safety upgrades, the safety risks posed by the reactors will continue to increase dramatically.

Although the existing agreement between DOE and Russia's Ministry of Atomic Energy governing the shutdown of Russia's plutonium production reactors provides a general framework for cooperation, there are no guarantees that the reactors will be shut down within DOE's projected time frames. Furthermore, the agreement does not specify what steps must be taken to shut down the reactors and what specific requirements must be met to certify the completion of the replacement fossil fuel plants. Without defining these steps and specific requirements, DOE will be unable to develop accurate estimates for the true scope and cost of its program or be able to determine more precisely when the reactors will be shut down. The history of U.S.-Russian nonproliferation activities has demonstrated that some well-intentioned programs have had limited success because the agreements governing them lacked specificity or oversight was inadequate. The lessons of the past should be carefully considered as DOE moves forward with its program. Furthermore, the existing time frames for shutting down the reactors reflected in the agreement are neither accurate nor achievable. DOE, Department of State, and Russian officials recognize that the shutdown dates in the agreement are unrealistic and will need to be revised to reflect DOE's schedule for the completion of the fossil fuel plants. Because of the history of failed efforts to secure the reactors' closure and the inability to achieve previously agreed upon shutdown dates for these reactors, we believe it would be in the best interests of the United States to revise the agreement in order to have increased assurances that the reactors will be permanently shut down.

A major consequence of DOE's program to assist Russia's closure of the reactors will be the displacement of thousands of Russian nuclear workers who are currently employed at the reactors and related facilities. Many of these workers have received specialized training in the manufacture and reprocessing of weapons-grade nuclear material and could pose a serious proliferation risk if unemployed because they might sell sensitive nuclear information to terrorists or countries of concern. This looming problem, if left unaddressed, has the potential to undermine the program. Although DOE has started to coordinate the reactor shutdown program with the department's other efforts to employ Russian nuclear workers—specifically the Russian Transition Initiatives—it has not developed a plan to coordinate these two nonproliferation programs. Moreover, there is no

overall U.S. government strategy that would integrate the Department of State's International Science and Technology Center program with DOE's programs to employ Russian weapons scientists, particularly in the cities where the reactors will be shut down. A jointly planned effort could strengthen U.S. nonproliferation efforts by leveraging resources and expertise between these programs. Such a plan could also identify other options to support employment opportunities in the two cities, including seeking financial support from other countries.

Estimated costs to construct the replacement fossil fuel plants are expected to increase dramatically. With the total cost for the program expected to be as much as $1 billion, DOE's program has taken on greater financial risk and will require a more substantial investment of resources. Because the United States has agreed to fully fund the costs of the replacement plants, Russia has little incentive to control construction costs. Russia would be more likely to show fiscal restraint if it were responsible for funding a portion of the construction projects. In the final analysis, this program will provide Russia with significant capital assets that Russia would have had to finance itself if not for the assistance of the United States. Additionally, DOE's approximately $179 million balance of unobligated and unspent program funding raises concerns, especially in light of the department's request for an additional $50.1 million in fiscal year 2005. Although DOE officials believe that these carryover balances are justified, it is highly unlikely that DOE will be able to spend its entire available program funding by the end of fiscal year 2004 because construction at both plants is not expected to begin until at least fiscal year 2005.

Recommendations for Executive Action

To help achieve important U.S. nonproliferation objectives, we recommend that the Secretary of Energy and the Administrator of the National Nuclear Security Administration continue efforts to reduce the amount of plutonium produced by the reactors as an interim measure before they are permanently shut down. Specifically, the Secretary and the Administrator should continue to pursue the option of extending summer outage periods at the reactors as a way to realize the immediate nonproliferation benefits of reduced plutonium production in Russia.

To increase the chances for program success by clarifying the existing reactor shutdown agreement, we recommend that the Secretary of Energy, working with the Administrator of the National Nuclear Security Administration and Secretary of State, do the following:

- reach agreement with Russia on the steps that must be taken to permanently shut down the reactors and the specific requirements that must be met to complete the replacement fossil fuel plants;

- identify any additional costs that may surface as a result of refining the scope of work associated with shutting down the reactors and completing the replacement fossil fuel plants and revise cost and schedule estimates for the program accordingly; and

- amend the March 2003 reactor shutdown agreement as soon as practicable to accurately reflect DOE's more realistic shutdown dates for Russia's three plutonium production reactors.

To maximize the benefits of related U.S. nonproliferation efforts, we recommend that the Secretary of Energy and the Administrator of the National Nuclear Security Administration do the following:

- Create a specific plan and take steps to formally coordinate DOE's program to assist Russia's closure of the three plutonium production reactors with the department's efforts to find jobs for displaced Russian nuclear workers through the Russian Transition Initiatives. Such a plan should be coordinated with Russia and should include strategies for obtaining assistance from other countries in finding employment for these workers.

- Take the lead in developing a comprehensive plan that focuses on integrating U.S. efforts to employ Russian nuclear workers in the cities of Seversk and Zheleznogorsk. The plan should be developed in conjunction with the Secretary of State. Such a plan should consider ways to better ensure that future projects funded by DOE and the Department of State in Seversk and Zheleznogorsk are clearly focused on finding jobs for Russian workers who will be displaced once the plutonium production reactors and related facilities are closed.

To help defray the escalating costs of DOE's program to shut down Russia's plutonium production reactors, we recommend that the Secretary of Energy and the Administrator of the National Nuclear Security Administration consider seeking financial support from Russia to construct the replacement fossil fuel plants. To the extent possible, these contributions should not be limited to in-kind contributions such as building materials, labor, or the value of land.

To address concerns about large carryover balances of program funding, we recommend that the Secretary of Energy and the Administrator of the National Nuclear Security Administration

- monitor funding requirements to ensure that funds are obligated in a timely manner and
- determine whether future funding requirements need to be reduced in light of the slow rate of spending to date on the program.

Agency Comments and Our Evaluation

We provided the Departments of Energy and State with draft copies of this report for their review and comments. DOE's and State's written comments are presented as appendixes IX and X, respectively.

DOE's National Nuclear Security Administration said the draft report provided a balanced evaluation of its program to shut down Russia's three plutonium production reactors. DOE agreed to implement our recommendations. The Department of State agreed with all of our recommendations except one that DOE should consider seeking financial support from Russia to construct the replacement fossil fuel plants. DOE also expressed concern with our conclusion regarding this matter. Both agencies stated that relying on Russia to fund critical program elements would delay the program, something they did not want to risk. These concerns notwithstanding, we continue to believe that DOE should look for opportunities to have Russia fund a portion of the construction projects as a way to contain costs, which are expected to increase dramatically. DOE plans to pursue obtaining financial support from Russia provided that it does not delay the program. We agree with this approach.

Both agencies also disagreed with our conclusion that Russia's rejection of key initiatives to reduce the amount of plutonium produced by the reactors and to improve their safety before they are shut down signals Russia's lack of commitment to the nonproliferation and safety goals of the program. Both agencies stated that Russia rejected these initiatives primarily due to its security concerns about granting U.S. officials access to the reactors. In our report, we recognized that Russia's security concerns may have played a role in rejecting the extension of summer outages at the reactors as an option for reducing plutonium production. However, in a November 2003 letter from MINATOM to DOE, Russia did not cite security concerns as a reason for rejecting the proposal. In fact, as we noted in the report, MINATOM stated that "[Russia does] not find it worthwhile to waste efforts

on a project for reducing plutonium production prior to the permanent shutdown of the reactors." Instead, MINATOM claimed that it wanted to focus on the earliest possible shutdown of the reactors. As we noted in our report, both U.S. and Russian officials told us that extending summer outages to reduce the current production of weapons-grade plutonium held great promise and would be an easy option to implement. Furthermore, in its comments, DOE stated that it was disappointed in Russia's rejection of the proposal to study ways to reduce the amount of plutonium produced by the reactors as an interim step before they are shut down.

Regardless of Russia's basis for rejecting the proposal, it should be noted that the long-standing and ultimate U.S. goal of this program is to reduce and eliminate the production of weapons-grade plutonium in Russia as quickly as possible. From the U.S. perspective, shutting down these reactors is a major nonproliferation objective, and the United States is committing significant resources to this effort. Thus, it seems reasonable to us that Russia should reciprocate and show its commitment to the fundamental nonproliferation tenets of this program. Finally, although DOE and State objected to our characterization of the implications of Russia's decision to reject key DOE initiatives, both agencies agreed with our recommendation that seeking summer outages as a way to reduce plutonium production should continue to be pursued.

With regard to the reactors' safety, we noted in the report that they are among the most unsafe in the world and that DOE was prepared to provide a substantial amount of assistance to improve their safety. Russia's rejection of the assistance, regardless of the reasons, raises serious concerns about its commitment to ensuring the reactors' safe operation until they can be shut down. As we noted in the report, DOE and national laboratory officials expressed doubt about whether Russia would perform sufficient safety upgrades on its own.

State also objected to what it believed to be our conclusion that final shutdown of the reactors is uncertain because the reactor shutdown and implementing agreements are insufficiently clear regarding the steps to permanently and irreversibly shut down the reactors. We believe that State in its written response to our draft report has mischaracterized our conclusion. Specifically, our report cites the lack of clarity in the agreement as one of several challenges that DOE faces that could affect final shutdown. While State disagreed with our conclusion, it agreed with our recommendation that DOE should reach agreement with Russia on the steps that must be taken to shut down the reactors and the specific

requirements needed to certify the completion of the fossil fuel plants. State also believes that we overstated the implications of the agreement's lack of accurate shutdown dates. However, State acknowledged that the deadlines for reactor shutdown in the agreement are no longer consistent with current plans and agreed with our recommendation to revise the dates.

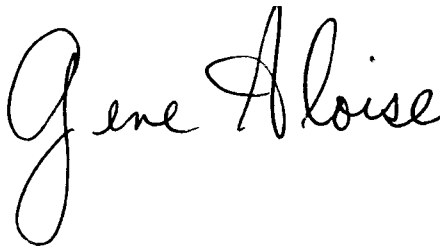
State also disagreed with our conclusion that worker transition issues have the potential to undermine the program. However, as we noted in our report, Russian officials we spoke with considered the employment of displaced workers as their highest priority and DOE officials acknowledged this as a major concern. Furthermore, DOE and State agreed with our recommendations to address this problem.

DOE and State also provided technical comments, which we incorporated in the report where appropriate.

We are sending copies of this report to the Secretary of Energy; the Administrator, National Nuclear Security Administration; the Secretary of State; the Director, Office of Management and Budget; and interested congressional committees. We will also make copies available to others upon request. In addition, this report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions concerning this report, I can be reached at 202-512-3841 or aloisee@gao.gov. Major contributors to this report are included in appendix XI.

Sincerely yours,



Gene Aloise
Acting Director, Natural Resources and Environment

Information About Seversk and Zheleznogorsk

This appendix provides information about the cities of Seversk and Zheleznogorsk, the two cities in Russia where the plutonium production reactors are located.

Seversk

Formerly known as Tomsk-7, the closed city of Seversk is located approximately 2,000 miles east of Moscow and about 9 miles northwest of Tomsk, a major industrial city in western Siberia. As of January 2000, the city had approximately 119,000 residents. In addition to plutonium production, a number of other nuclear related activities have been carried out in Seversk, including the fabrication of uranium and plutonium weapons components. Recently, Seversk was selected to be the site for a planned facility that will dispose of 34 metric tons of Russia's weapons-grade plutonium by converting it into mixed oxide fuel. The planned conversion facility will be built with Department of Energy funding. Nonnuclear activities at the city include an oil refinery operation.

Seversk is the location of the Siberian Chemical Combine, which is responsible for operating the plutonium production reactors. Construction of the Siberian Chemical Combine facilities began in 1949; and on July 26, 1953, the first output of enriched uranium-235 was produced. Since its inception, the Siberian Chemical Combine has housed the Siberian Atomic Power Station; a chemical separation plant; facilities for plutonium processing, blending, and pit fabrication; an enrichment plant; and nuclear waste management facilities. The first of the plutonium production reactors at Seversk came online in 1955, and by the 1970s five such reactors were operating at the site. Three of the reactors were shut down in the early 1990s. The city's two remaining weapons-grade plutonium production reactors began operation in 1965 and 1968 and continue to provide heat and electricity to Seversk and the neighboring city of Tomsk. Currently, the Siberian Chemical Combine employs about 15,000 workers, most of whom are highly skilled nuclear experts.

Zheleznogorsk

Zheleznogorsk is located approximately 2,500 miles east of Moscow and about 35 miles north of the city of Krasnoyarsk. As of early 2000, the city had a population of 103,000. Formerly known as Krasnoyarsk-26, the city was built to house the employees of the Mining and Chemical Combine, a complex engaged in producing and processing weapons-grade plutonium. Both the city and the Mining and Chemical Combine are located on the east bank of the Yenisei River in Siberia. In 1996, the residents of Zheleznogorsk

voted to remain a closed city in an attempt to maintain the clean, village-like quality amidst harsher, more environmentally damaged towns. Since the end of the Cold War, the technical workforce in Zheleznogorsk has dropped; and the city is now in difficult financial straits. Zheleznogorsk has tried to diversify its economy through forays into satellite building and television assembly.

The three plutonium production reactors operated by the Mining and Chemical Combine were built in a huge cavern approximately 250 meters beneath a mountain. Over 60,000 prisoners were forced to excavate the chambers containing the reactors when work began in 1950, but in 1953 over 100,000 military construction workers replaced these prisoners. Two of the reactors began operating in 1958 and 1961 but were both shut down in 1992. A third plutonium production reactor, active since 1964, still functions to provide heat and electricity to the city. The Mining and Chemical Combine currently employs about 9,500 workers who in addition to plutonium production are involved in other nuclear-related activities, including the stockpiling of plutonium.

Scope and Methodology

We performed our review of DOE's Elimination of Weapons-Grade Plutonium Production program at DOE's offices in Germantown, Maryland; DOE headquarters in Washington, D.C.; the Defense Threat Reduction Agency in Ft. Belvoir, Virginia; the Department of State (State) in Washington, D.C.; the National Security Council in Washington, D.C.; the Nuclear Regulatory Commission in Rockville, Maryland; and Moscow, Seversk, and Zheleznogorsk, Russia.

To assess the progress of DOE's recent efforts to shut down Russia's three remaining plutonium production reactors, we reviewed documents and had discussions with officials from the Department of Defense (DOD); DOE; State; the National Security Council; the Nuclear Regulatory Commission; the Pacific Northwest National Laboratory (PNNL); the National Energy Technology Laboratory; the U.S. Trade and Development Agency; DOE's U.S. contractors—Washington Group International (WGI) and Raytheon Technical Services (Raytheon); and a number of nongovernmental entities, including nonproliferation and fossil fuel experts. In September 2003, we visited Russia to interview Russian officials and to see the sites for the replacement fossil fuel plants DOE plans to fund. While in Moscow, we spoke with officials from the Ministry of Atomic Energy of the Russian Federation; Rosatomstroi; the Kurchatov Institute, a leading Russian nuclear design institute; and Gosatomnadzor, the Russian nuclear regulatory agency. These officials provided Russia's views of DOE's program to build replacement fossil fuel plants and its efforts to shut down the reactors. We visited Zheleznogorsk and spoke with officials from the Mining and Chemical Combine, the city government, the planned fossil fuel plant, and the operators of the reactor. We toured the site of the planned fossil fuel plant and observed the current condition of the buildings at the site. We visited Seversk and interviewed officials from the Siberian Chemical Combine, the city government, operators of the reactors, and operators of the existing fossil fuel plant that DOE plans to refurbish. We toured the site of the existing fossil fuel plant and observed its current condition.

To assess DOE's management of the program we examined documents from DOE and DOE's U.S. contractors—WGI and Raytheon. We interviewed officials from DOE's Office of Engineering and Construction Management and from the Elimination of Weapons-Grade Plutonium Production program. In addition, while in Russia, we obtained views on DOE's management of the program from a number of Russian officials from the Ministry of Atomic Energy of the Russian Federation; Rosatomstroi; the Kurchatov Institute; Gosatomnadzor; the Mining and Chemical Combine;

the Siberian Chemical Combine; and the city governments of Zheleznogorsk and Seversk.

To identify challenges DOE faces in implementing its program, we examined documents from DOE, the Nuclear Regulatory Commission, PNNL, the National Energy Technology Laboratory, DOE's U.S. contractors—WGI and Raytheon, and several nongovernmental entities including nonproliferation and fossil fuel experts. To describe the proposed upgrades DOE planned to fund to improve the safety of the reactors while replacement fossil fuel plants were being built, we reviewed documents from DOE, the Nuclear Regulatory Commission, and PNNL. We also interviewed nuclear safety officials from DOE, the Nuclear Regulatory Commission, the Department of State, and PNNL.

To determine the amount of money spent on U.S. efforts to eliminate weapons-grade plutonium production in Russia prior to the program's transfer from DOD to DOE in December 2002, we analyzed documents and spoke with officials from DOE, DOD, the Department of State's Nonproliferation and Disarmament Fund, the U.S. Trade and Development Agency, PNNL, and the Nuclear Regulatory Commission. Dollar amounts for the historical spending on these efforts were adjusted to constant fiscal year 2003 dollars to reflect trends in inflation over time. Because they are being used for background purposes only, we did not assess the reliability of these historical data.

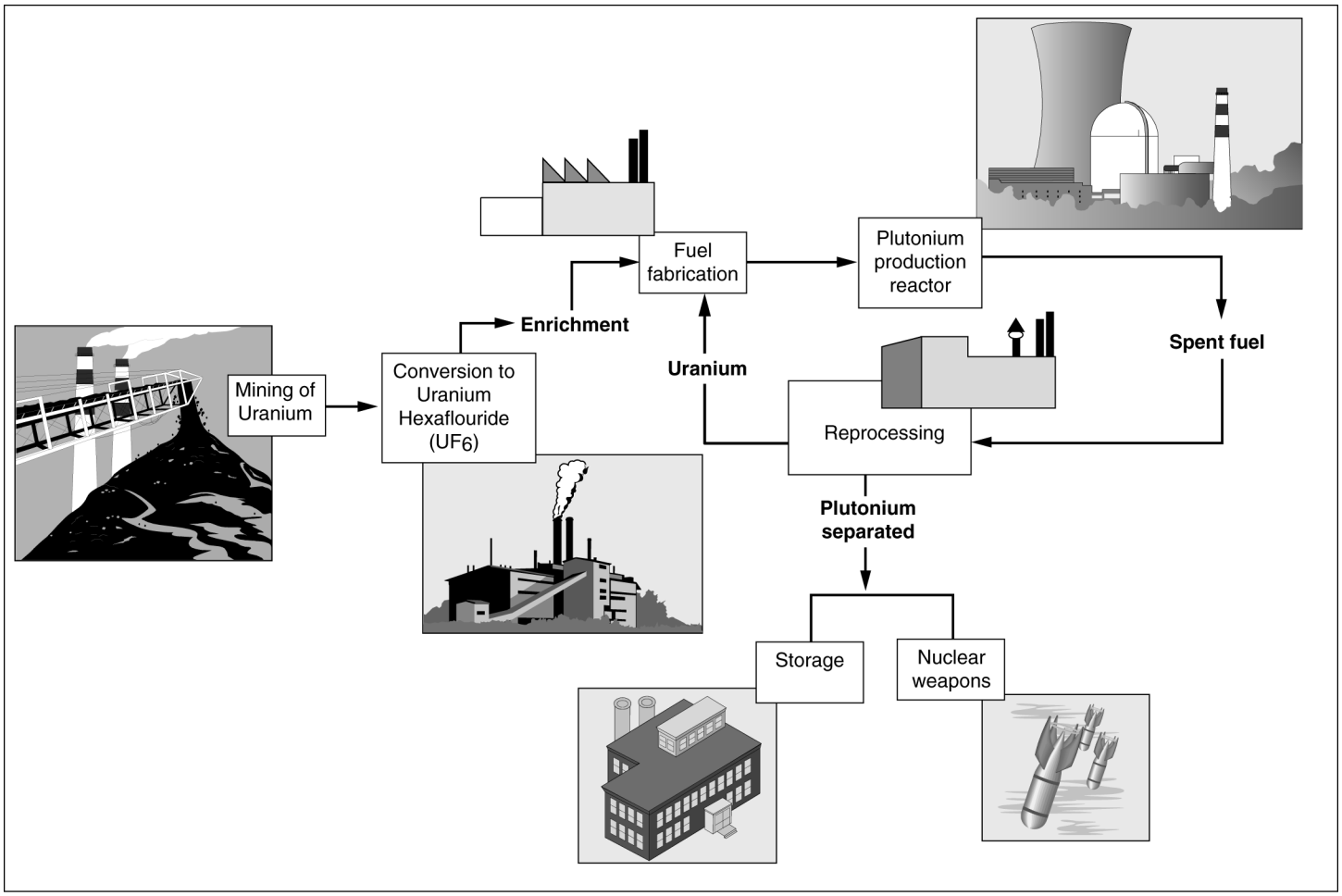
To determine how much DOE had spent through December 31, 2003 on its efforts to eliminate weapons-grade plutonium production in Russia and DOE's projected costs to implement the program, we reviewed DOE's cost and schedule estimates for the replacement fossil fuel plants, interviewed appropriate agency officials, and posed a number questions to DOE to determine the reliability of the financial data provided to us. We determined that the data were sufficiently reliable for the purposes of this report based on work we performed to assure the data's reliability. Specifically, we (1) met numerous times with program officials to discuss these data in detail; (2) obtained from key database officials responses to a series of questions focused on data reliability covering issues such as data entry access, internal control procedures, and the accuracy and completeness of the data; and (3) added follow-up questions whenever necessary.

We conducted our review between June 2003 and April 2004 in accordance with generally accepted government auditing standards.

The Plutonium Production Nuclear Fuel Cycle

Plutonium is a byproduct of the nuclear fuel cycle and is produced by all nuclear reactors. Weapons-grade plutonium, however, contains a high content of plutonium-239, which is the most suitable isotope for use in nuclear weapons. Plutonium of this type is formed in the Russian production reactors as a component of highly radioactive spent reactor fuel. Although at this point the plutonium is relatively protected against proliferation because it is diluted and surrounded by the highly radioactive spent fuel, it cannot be safely stored for long periods in this form at the "wet storage" areas at the reactors to preclude corrosion and cracking in the aluminum fuel cladding. The plutonium is taken to another facility where it is chemically separated from the spent fuel in an operation called "reprocessing." There is also an optimal time to reprocess the spent nuclear fuel: reprocess too soon and the fuel is highly radioactive, reprocess too late and the fuel can contaminate the spent fuel pool. Although the reprocessed fuel requires containment and is easily incorporated into weapons, it is also relatively easier and less expensive to store than spent fuel. Figure 3 illustrates the plutonium production cycle.

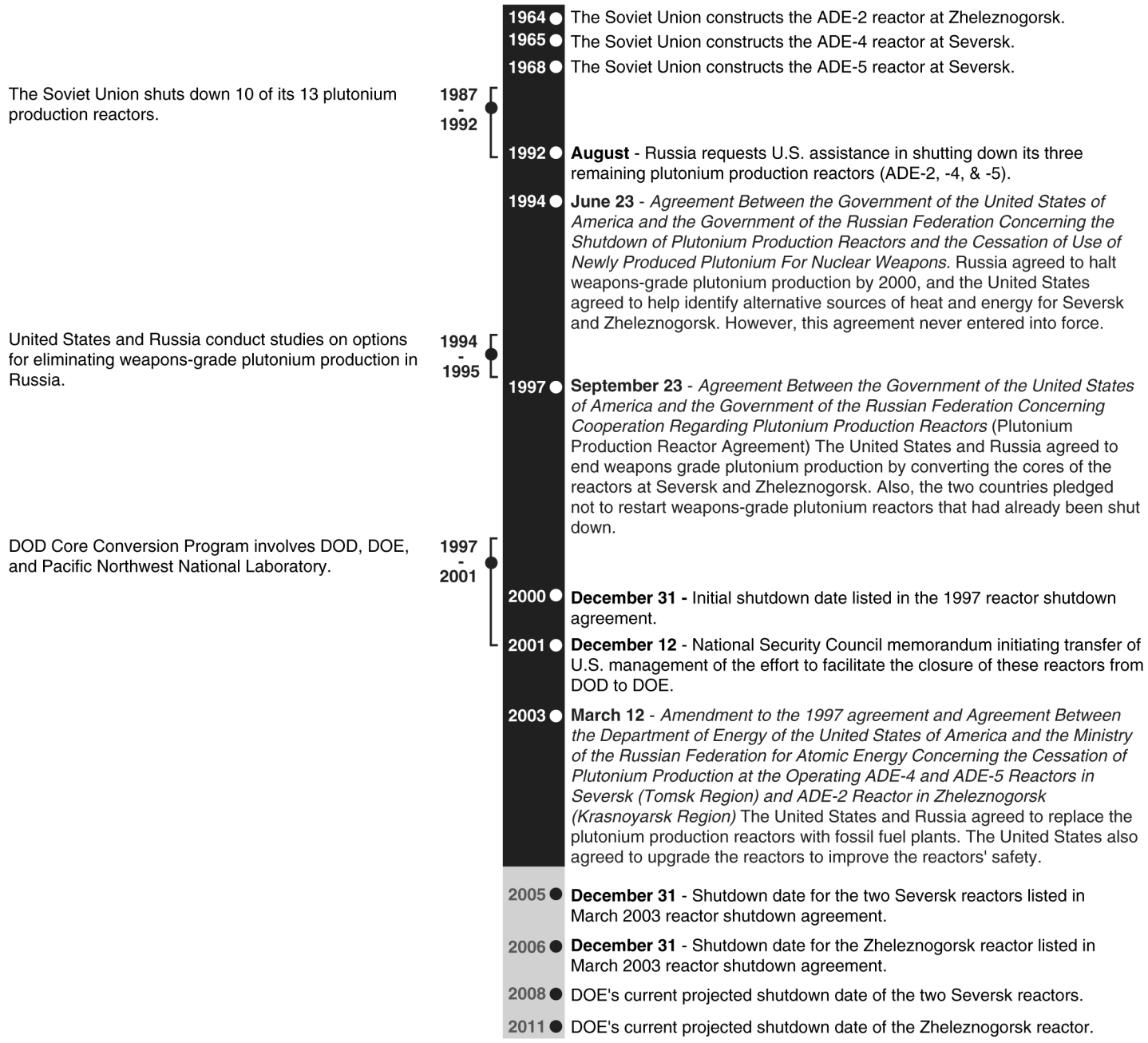
Figure 3: Nuclear Fuel Cycle Resulting in the Production of Weapons-Grade Plutonium



Sources: GAO; Nova Development (clip art).

Time Line Showing the History of Russia's Remaining Plutonium Production Reactors and Efforts to Bring About Closure

Figure 4: Russian Plutonium Production Reactor Time Line



Source: GAO.

Additional Information About DOE's Management Plan for the Program

Figure 5 shows the project acquisition process and critical decision (CD) points used in the DOE order 413.3 program management structure, which DOE has adopted for the program.

Figure 5: DOE Order 413.3 Project Acquisition Process and Critical Decisions

Project Acquisition Process and Critical Decisions				
Project planning phase		**Project execution phase**		**Mission**
Preconceptual planning / Conceptual planning		Preliminary design	Final design / Construction	Operations
CD-0 Approve mission need	**CD-1** Approve preliminary baseline range	**CD-2** Approve performance baseline	**CD-3** Approve start of construction	**CD-4** Approve start of operations or project closeout
CD-0	**CD-1**	**CD-2**	**CD-3**	**CD-4**
Actions authorized by Critical Decision approval				
• Proceed with conceptual design using program funds	• Allow expenditure of funds for design	• Establish baseline budget for construction • Continue design • Request construction funding	• Approve expenditure of funds for construction	• Allow start of operations or project closeout
Critical Decision prerequisites				
• Justification of mission need document • Acquisition strategy • Preconceptual planning • Mission need independent project review	• Acquisition plan • Conceptual design • Preliminary project execution plan and baseline range • Project data sheet for design • Verification of mission need • Preliminary hazard analysis report	• Preliminary design Review of contractor project management system • Final project execution plan and performance baseline • Independent cost estimate • National environmental policy act documentation • Project data sheet for construction • Draft preliminary safety analysis report • Performance baseline external independent review	• Update project execution plan and performance baseline • Final design and procurement packages[a] • Verification of mission need • Budget and congressional authorization and appropriation enacted • Approval of safety documentation • Execution readiness independent review • Operational readiness review and acceptance report • Project transition to operations report • Final safety analysis report	**Closeout** • Project closeout report

Source: DOE.

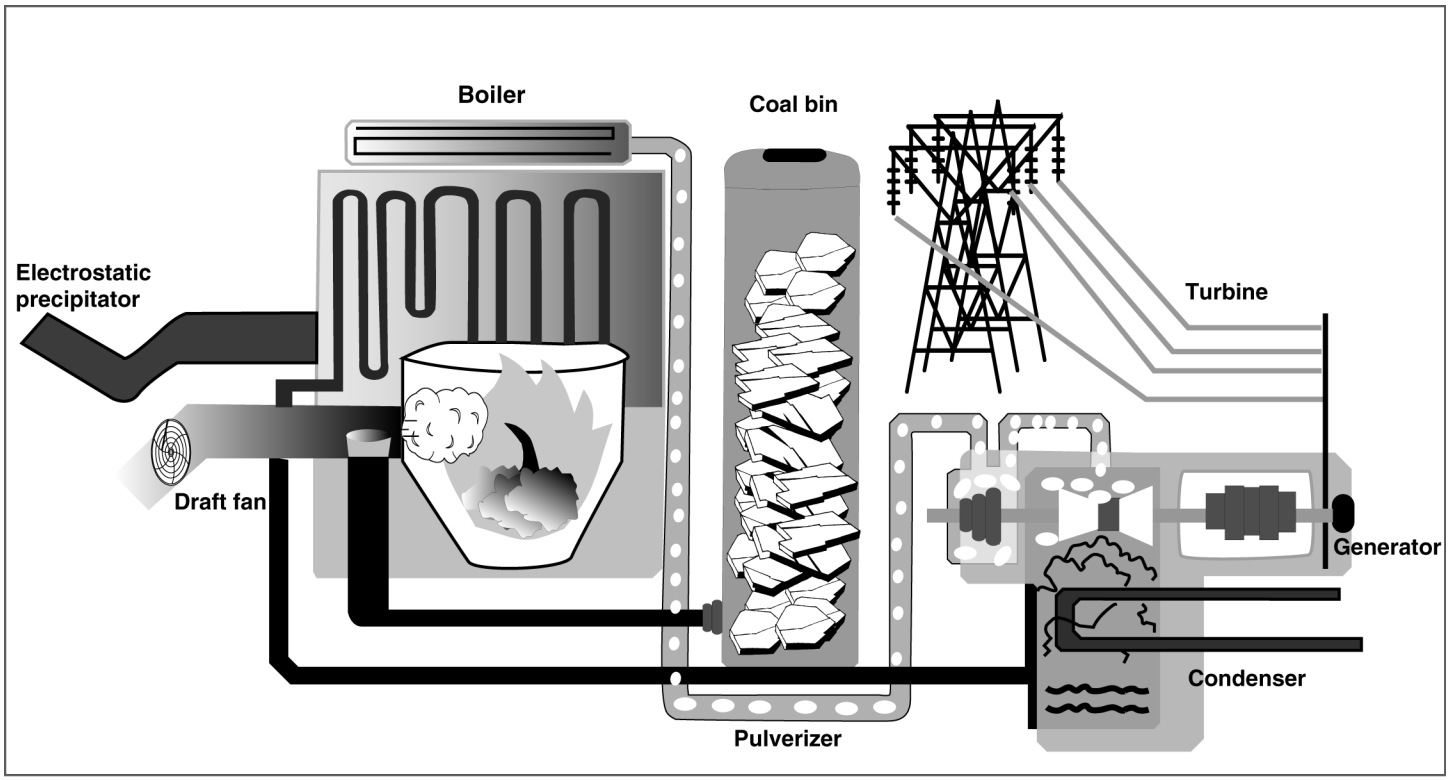
[a]To the degree appropriate to initiate construction as scheduled.

As figure 5 shows, the five CD points are: (1) CD-0, approve mission need; (2) CD-1, approve preliminary baseline range; (3) CD-2, approve performance baseline; (4) CD-3, approve start of construction; and (5) CD-4, approve start of operation or project closeout. Figure 5 also shows the prerequisite documentation and project milestones, such as the acquisition and project execution plans, which must be provided before critical decision approval can be granted. DOE officials believe that this management approach will help improve program oversight and accountability. The fossil fuel plant construction projects at Seversk and Zheleznogorsk gained approval of mission need (CD-0) from the Deputy Secretary of Energy in December 2002. DOE officials told us that the Seversk project would proceed to CD-1 in April/May 2004 and to CD-2 near the end of fiscal year 2004. The Zheleznogorsk project is expected to move to CD-1 in August 2004 and to CD-2 in the second quarter of fiscal year 2005.

Description of a Coal-Fired Power Plant

This appendix describes how electricity and heat are produced by a coal-fired power plant. Although the plant described is not identical to ones that will be constructed in Russia, the description is generic and can generally be applied to all coal-fired power plants. Figure 6 shows how electricity is produced by a coal-fired power plant.

Figure 6: Coal-Fired Power Plant



Sources: Pepco; Nova Development (clip art).

Coal is pulverized into a fine powder as it leaves the coal bin. That powder is blown into a boiler where it is ignited. The walls of the boiler contain miles of tubing, through which water is circulated. Heat from the burning coal turns the water into steam. The steam passes through piping to a turbine. The steam is directed against blades of the turbine causing it to spin. The turbine shaft turns, rotating the generator, which creates electricity. After the steam is directed against the blades, it goes to a condenser beneath the turbine. Cool water in the condenser turns the

steam back into water. The water is pumped back into the boiler tubes to be heated into steam again. Large fans blow air into the boiler to support the combustion of coal. Some of the air is directed to the pulverizer where it helps dry the coal and carry it to the boiler. Coal ash drops to the bottom of the boiler for disposal. Hot gases escape from inside the boiler. Impurities are removed from these gases through scrubbing systems before they are released through the stack.

Description of DOE's Planned Nuclear Safety Upgrades

As part of the March 2003 reactor shutdown agreement signed by DOE and the Ministry of Atomic Energy of the Russian Federation, DOE pledged to improve the safe operation of Russia's three remaining plutonium production reactors until they can be shut down. Prior to Russia's decision to reject DOE assistance to improve the safety of the reactors, DOE had allocated $21 million to support 28 safety upgrade projects including fire safety system improvements, enhancements to emergency electrical power systems, and risk assessments. DOE planned to complete the safety upgrades within 24 months in order to improve the safety of the reactors during their remaining lifetime. To oversee the safety upgrade projects, DOE selected PNNL, which had managed prior efforts under DOD to modify the reactors' cores and was thus familiar with the reactors and their design and safety problems.

DOE selected the safety upgrade projects after determining that none of them would extend the operating life of the reactors. DOE chose the 28 projects out of a larger list of 40 projects that Russian reactor officials submitted. According to DOE and PNNL officials, some of the reactor upgrades that Russia initially proposed were rejected because they were potentially life extending or would require too much time to implement. For example, DOE rejected Russian upgrades to improve the primary coolant pipes of the reactors due to concerns that such improvements would be life extending.

Table 2 provides information about each of DOE's planned upgrades to improve the safety of Russia's three plutonium production reactors.

Table 2: DOE's Planned Nuclear Safety Upgrade Projects

Dollars in thousands

Project name	Location	Estimated cost	Responsible Russian organization	Project description
Control and Protection System	Zheleznogorsk ADE-2[a]	$1,090	Mining and Chemical Combine	Upgrade the sensors and scram logic for the Control and Protection System to improve the scram reliability upon demand
Emergency Electrical Power Supply	Zheleznogorsk ADE-2	650	Mining and Chemical Combine	Improve reliability of the Emergency Electrical Power Supply System by replacing aging batteries
Graphite Stack Stabilization	Zheleznogorsk ADE-2	1,290	Mining and Chemical Combine	Stabilize graphite stack by ensuring the control rods will insert rapidly during a scram
Strain Gauge Monitoring System	Zheleznogorsk ADE-2	520	Mining and Chemical Combine	Add a strain gauge monitoring system to fuel channel connections (or "goose necks") to ensure against progressive degradation in selected primary system components
Fire protection for Emergency Electrical Power Supply	Zheleznogorsk ADE-2	970	Mining and Chemical Combine	Improve reliability Emergency Electrical Power Supply System by replacing deteriorating electrical insulation
Safety Analysis Report chapter 4 and system reliability	Zheleznogorsk ADE-2	410	OKBM	Perform accident analysis on the upgraded reactor plant as required for a Safety Analysis Report
Safety Analysis Report additional chapters	Zheleznogorsk ADE-2	500	OKBM	Develop other Safety Analysis Report chapters to obtain a complete report for the upgraded plant
Emergency communications	Zheleznogorsk ADE-2	390	Mining and Chemical Combine	Replace obsolete emergency communications equipment with a modern system capable of reliably functioning in the event of an accident
Emergency Core Cooling System	Seversk ADE-4	900	Kurchatov Institute & OKBM	Improve the response of the Emergency Core Cooling System by allowing rapid access to the emergency water inventory and by properly allocating this inventory in the event of a loss of coolant accident
Subcritical Reactivity Monitoring System	Seversk ADE-4	640	Siberian Chemical Combine & Kurchatov Institute	Install a subcritical reactivity monitoring system to monitor subcritical reactivity of reactor during refueling outages to prevent unplanned reactor power additions
Safety Analysis Report chapter 4	Seversk ADE-4 and ADE-5	260	OKBM	Perform accident analysis on the upgraded reactor plant as required for a Safety Analysis Report

(Continued From Previous Page)

Dollars in thousands

Project name	Location	Estimated cost	Responsible Russian organization	Project description
Safety Analysis Report additional chapters	Seversk ADE-4 and ADE-5	510	OKBM	Develop Safety Analysis Report chapters to obtain a complete report for the upgraded plant
Probabilistic Risk Assessment	Zheleznogorsk ADE-2	310	OKBM	Modify Probabilistic Risk Assessment to reflect the reactor plant with safety upgrades
Probabilistic Risk Assessment	Seversk ADE-4 and ADE-5	310	OKBM	Modify Probabilistic Risk Assessment to reflect the reactor plant with safety upgrades
Safety Code Verification Testing	All three reactors (ADE-2, ADE-4, & ADE-5)	710	OKBM	Perform cold experiments to benchmark safety codes on the actual configurations that will be found in accidents
Safety Computer Codes	All three reactors (ADE-2, ADE-4, & ADE-5)	390	OKBM	Obtain modern codes and employ them in accident analyses required for chapter 4 of the Safety Analysis Report
Emergency Core Cooling System Valve Replacement and Loop Separation	Seversk ADE-4	2,320	Siberian Chemical Combine	Upgrade reactor-cooling systems to reduce vulnerability to loss of coolant accidents resulting from major boundary failures
Emergency Core Cooling System Equipment Procurement	Seversk ADE-5	900	Siberian Chemical Combine	Procure equipment needed for upgrade of Emergency Core Cooling System of ADE-5
Emergency Electrical Power Supply	Seversk ADE-4 and ADE-5	610	Siberian Chemical Combine	Improve reliability of the Emergency Electrical Power Supply System by replacing aging batteries and eliminating accident-prone environments
Control and Protection System	Seversk ADE-4 and ADE-5	770	Siberian Chemical Combine	Improve the reliability of the control and protection system to allow more reliable detection of over-power transients
Fire Protection for Emergency Electrical Power Supply	Seversk ADE-4 and ADE-5	640	Siberian Chemical Combine	Improve the reliability of the Emergency Electrical Power Supply System by replacing deteriorating electrical insulation
Passive Protection Systems	Seversk ADE-4 and ADE-5	320	Siberian Chemical Combine	Verify the performance of passive protection devices to ensure that they will function as required in an accident situation
Accident Management Manuals	Seversk ADE-4 and ADE-5	340	Siberian Chemical Combine	Upgrade Accident Management Manuals to improve operator response
Process Ventilation System	Seversk ADE-4 and ADE-5	2,830	Siberian Chemical Combine	Upgrade Process Ventilation System so that it has the capacity to retain airborne fission products in the event of fuel melting and multiple fuel channel ruptures

(Continued From Previous Page)

Dollars in thousands

Project name	Location	Estimated cost	Responsible Russian organization	Project description
Emergency communications	Seversk ADE-4 and ADE-5	250	Siberian Chemical Combine	Replace obsolete emergency communications equipment with a modern system capable of reliably functioning in the event of an accident
Ejected fuel element shielding removal	Seversk ADE-4 and ADE-5	260	Siberian Chemical Combine	Remove iron shot used to cover four ejected fuel elements from a 1999 fuel loading accident
Emergency Core Cooling System review	Seversk ADE-4 and ADE-5	130	Siberian Chemical Combine	Review the design and operation of the N-Reactor Emergency Core Cooling System to develop insights into preferred operating approaches
Accident Management Manuals	Zheleznogorsk ADE-2	290	Mining and Chemical Combine	Upgrade Accident Management Manuals to improve operator response
Accident Steam Dump System	Zheleznogorsk ADE-2	1,800	Mining and Chemical Combine	Upgrade system to increase capacity of steam rejection system to ensure against steam over-pressures and mechanical damage to primary piping under accident conditions

Source: DOE.

[a]The Russian acronym used to identify the three remaining plutonium production reactors is "ADE." ADE-2 refers to the reactor at Zheleznogorsk and ADE-4 and ADE-5 refer to the reactors at Seversk.

GAO Technical Analysis of the Safety Problems Associated with Russia's Three Plutonium Production Reactors

Russia's three remaining weapons-grade plutonium production reactors are among the most dangerous reactors currently operating in the world. All three of the reactors were built using old designs derived from the original reactor run by Enrico Fermi in the 1940s. According to officials from MINATOM, the Russian nuclear regulatory agency Gosatomnadzor, and the Kurchatov Institute—the leading civilian nuclear research institute in Russia—the reactors must be shut down by 2010.[1] However, the reactor managers at Seversk believed that the continuous repairs to the reactors over the years are increasing the operating life and that further safety upgrades could allow the reactors to operate until 2014. In our view, all three reactors are showing the wear of having been run for a very long time at very high output, and all have had accidents—some as recently as 5 years ago.

The safety risks posed by these reactors are a function of three factors: (1) all three reactors have been running at a very high output, producing both high temperatures and high neutron flux (the number of neutrons passing through a sphere one square-centimeter in cross-section during a unit of time) for their entire lives; (2) all three reactors have run approximately twice as long as they were originally designed to operate; and (3) none of these reactors meet current reactor safety standards. The danger that these reactors present is the risk of a catastrophic reactor failure—such as a loss of coolant accident—which would result in a fire expelling the highly enriched uranium fuel and its fission byproducts such as plutonium and strontium-90, all of which are highly toxic and carcinogenic. The danger from such a fire is that radioactive particles would be dispersed and breathed into the body, causing either kidney damage from particles of uranium or cancer from particles of strontium-90 and plutonium.

All three reactors are designed to run at rated power, which is the original power output level of a reactor in terms of temperature output (t), and electrical output (e). According to Gosatomnadzor, the rating for the reactors is 800 megawatts (t) each. A Gosatomnadzor official informed us that the reactors could run at 20 percent higher than their original rating, or at 960 megawatts (t), and that the reactors had run at an elevated level during a 20-year period. In our opinion, Gosatomnadzor's estimates are probably conservative because, based on the amount of fuel that can be used by the reactors and the fuel type that has been used, each reactor has

[1]DOE officials believe that the 2010 date is administrative and provided documentation that indicated the reactors could operate until 2024.

the ability to run at a power level up to 2,500 megawatts (t) and has been run at a power level of at least 2,000 megawatts. If these reactors were originally designed to run at 800 megawatts (t), then they may have run at three times their original design rating. This will definitely shorten the operating life of the reactors, which makes their continued operation risky.

Russian officials that we met disagree over both the original life spans of the reactors and how much longer the reactors can be operated before the risk of a catastrophic failure becomes too high. According to officials from MINATOM, Gosatomnadzor, and the Kurchatov Institute, the original life span for each of the reactors was 25 years. However, according to the operators of the three Russian reactors, the original reactor life spans are 20 years. All three reactors have operated for approximately 40 years, or roughly twice as long as originally designed. Gosatomnadzor confirmed that the design life is a function of: (1) the graphite cladding—which forms the outer, protective layer of the fuel elements and (2) the steel containment that surrounds the core. If it is assumed that the reactors have operated at 2,500 megawatts (t) for 20 years, then the original design life of 20 years could be reduced by up to 10 years, since the super heating of the graphite and the high neutron flux at the core center will cause much higher degradation than if the reactors were run at their rated power levels for their entire lives. These two factors will make the integrity of both the graphite cladding and the steel containment highly questionable and will increase the risk of a catastrophic failure of the reactors.

None of the reactors meets current Russian, U.S., or international safety standards because they lack modern safety controls and are therefore dependent on direct operator intervention for both monitoring and safety. MINATOM, Gosatomnadzor, and the Kurchatov Institute told us that the personnel working at the reactors pose a safety threat because the quality of the reactor staff is weakening due to attrition and old age. According to Gosatomnadzor, the average age of reactor workers is 50, and the reactors are experiencing an increased number of temporary emergency shutdowns due to operator error, not the technology itself. Conversely, reactor officials at Seversk were concerned that the attrition of older workers will result in the loss of the knowledge and the ability of people that have become familiar with the reactors over many years. Although the Russian organizations disagree over the cause of the increased rate of accidents, there is a consensus that workforce attrition will have an impact on the safe operation of the reactors because it is likely that the reactor workers are the first and last line of defense against reactor accidents.

Comments from the Department of Energy



Department of Energy
National Nuclear Security Administration
Washington, DC 20585



MAY 13 2004

Mr. Gene Aloise
Acting Director
Natural Resources and Environment
General Accounting Office
441 G St, NW
Washington, D.C. 20548

Dear Mr. Aloise:

The National Nuclear Security Administration (NNSA) appreciates the opportunity to have reviewed the General Accounting Office's (GAO) draft report, "NUCLEAR NONPROLIFERATION: DOE's Effort to Close Russia's Plutonium Production Reactors Faces Challenges, and Final Shutdown Is Uncertain." We understand that the Chairman, Subcommittee on Emerging Threats and Capabilities, Senate Committee on Armed Services, requested GAO to (1) determine what progress has been made toward achieving the goal of shutting down these reactors and assess if the dates for the planned shut down are achievable and realistic; (2) determine what obstacles the program faces that could delay the implementation and completion of the program and what measures the NNSA plans to use to address such obstacles; (3) assess the budget, management, planning and implementation of the program; and (4) assess the extent to which any safety upgrades provided by NNSA for these reactors may prolong their life, thereby possibly delaying their shut down.

Based on your work you have concluded that we should reach agreement with the Russians on the steps that must be taken to permanently shut down the reactors and the conditions necessary to complete the fossil fuel plants; amend the reactor shutdown agreement to reflect our revised completion dates for the fossil fuel plants; and to develop a plan in conjunction with the Russians, to address the problem of employing nuclear workers who will lose their jobs when the reactors are closed.

The Department agrees with several of the recommendations and is moving forward with implementation. We are starting work with the Russians on a Reactor Shutdown Plan, which will tie Russian steps toward permanent shutdown of the three remaining plutonium production reactors to specific milestones in the construction of the fossil fuel replacement plants. Another action is working both internally and with potential international partners to address the concern about displaced workers. At Seversk, the

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situation is particularly acute in that actions may need to start as early as next year if the Russians agree to an early shutdown of one of the Seversk reactors once a mutually agreed stage of construction is reached. Please be aware also that Ambassador Brooks is putting pressure on all programs within the National Nuclear Security Administration to reduce uncosted balances. If events proceed as planned, major construction should begin at Seversk in FY 2005. This would allow us to obligate and begin costing a significant portion of the Project's remaining funds. However, I do caution that, in order for the Project to move forward on the aggressive schedule planned, the requested funding needs to be provided by Congress.

There are two major points where we disagree with the position stated in the draft Report and request that you consider our concerns during your final reviews. The first point is the conclusion reached that Russia's reluctance to consider extending the summer outage to reduce plutonium production and their assumption of the responsibility for the nuclear safety upgrades calls into question their commitment to non-proliferation. As you will see in our enclosed detailed comments, we do not share this view. In fact, a cogent argument can be made to draw the opposite conclusion. They did not want to consider the extended summer option because they thought it would detract from the effort to complete the fossil construction and resulting reactor shutdown as soon as possible. They also are still holding out the possibility that one reactor at Seversk may be shutdown early as referenced above. We see the Russian assumption of the nuclear safety work with mixed emotions. On the one hand, I am confident that our experts would have provided upgrades of known quality and capability. On the other hand, your Report argues for more Russian contributions to the Project and this is such an effort on their part. Their assumption of this work will not impact the fossil construction schedule.

Our other concern, that we should seek further Russian cost sharing, is a concern, particularly if it is in areas, which have schedule implications. One of their contributions is the Zheleznogorsk site. As your Report notes, this was a long, difficult process, which caused delays for our side. We are also concerned that we cannot delay the schedule on this critical nonproliferation project while negotiating and awaiting cash contributions for the program. While we will explore this consideration, we will also evaluate the risk of this alternative to the schedule adherence and overall cost effectiveness for the U.S. tax payer.

As stated, we have enclosed detailed comments related to this draft report. Technical questions may be answered by Dr. James Turner or Mr. Kenneth Chancey.

Should you have any questions related to this response, please contact Richard Speidel, Director, Policy and Internal Controls Management at 202-586-5009.

Sincerely,

Michael C. Kane
Associate Administrator
for Management and Administration

Enclosure

cc: Deputy Administrator for Defense Nuclear Nonproliferation, NA-20

NNSA's Comments on
GAO Draft Report;
NUCLEAR NONPROLIFERATION: DOE's Effort to Close Russia's Plutonium Production Reactors Faces Challenges, and Final Shutdown is Uncertain
(GAO-04-662)

In summary, DOE finds the draft report to be a balanced evaluation of its Elimination of Weapons Grade Production (EWGPP) Program and the challenges faced in shutting down the last three plutonium production reactors in the Russian Federation. DOE takes issues, however, with certain conclusions in the report; its concerns on these conclusions are also detailed below.

Now on pp. 30-32.

RESPONSES TO RECOMMENDATIONS (pages 35/36).

Recommendation 1. Continue to pursue the option of extending summer outage periods at the reactors as a way to realize the immediate nonproliferation benefits of reduced plutonium production in Russia.

Now on p. 17.

DOE Response. DOE was disappointed that Russia rejected a proposal to study ways to reduce the amount of plutonium produced by the reactors in the interim before they are shut down. As discussed elsewhere in the draft report (page 19), DOE had obtained funds to finance a study of three options for reducing near-term plutonium production. We believe that the primary reason that Russian officials rejected the proposal was that verifying production reduction would require at least limited access by DOE representatives to the nuclear facilities. DOE will seek clarification from Russian representatives regarding the access issue and investigate ways to mitigate Russian concerns with the hope of reaching agreement for extending summer outages. In any case, DOE will continue to pursue the proposal for early Russian shutdown of one of the Seversk reactors once an agreed stage of refurbishment of the fossil plant is completed and operating.

Recommendation 2. Reach agreement with Russia on the steps that must be taken to permanently shutdown the reactors and the specific requirements must be met to complete the replacement fossil fuel plants.

DOE Response. DOE has reached agreement with OKBM (the Russian reactor design agent), to conduct a technical and economic study of shutdown requirements for the three reactors. The study will tie completion of these requirements to milestones in the fossil projects. The contract for OKBM is currently being reviewed through the Russian interagency process. We expect to initiate the study by early summer and to have it completed by early fall 2004. This study will include engineering assessments of radiation systems, instrumentation and control equipment, metal structures, and concrete and graphite components. It will also verify closure techniques for specific systems. Lastly, it will contain a schedule of milestones for the shutdown process that can be tied to construction and

Now on p. 20.

refurbishment of the replacement fossil fuel plants and cost estimates for shutdown options. GAO acknowledges DOE's progress on the reactor shutdown issue later in the draft report (page 23). DOE also plans to develop a workforce transition plan directly with FAAE.

Recommendation 3. Identify any additional costs that may surface as a result of refining the scope of work associated with shutting down the reactors and completing the replacement fossil fuel plants and revise cost and schedule estimates for the program accordingly.

Now on p. 11.

DOE Response. As discussed in the draft report (page 13), DOE is using DOE Order 413.3 to conduct the program. This process requires projects to go through a series of five critical decision points. As part of this process, program management is developing final cost estimates for construction of the Zheleznogorsk plant and refurbishment of the Seversk plant. As these estimates are refined, senior Department management will be advised and program documentation modified appropriately.

Recommendation 4. Amend the March 2003 reactor shutdown agreement as soon as practicable to accurately reflect DOE's more realistic shutdown dates for Russia's three plutonium production reactors.

Now on p. 20.

DOE Response. DOE will seek to modify the reactor shutdown implementing arrangement to reflect revised completion dates once project designs are completed. This effort will be conducted in conjunction with Department of State. GAO acknowledges that DOE and State Department officials plan such action later in the draft report (page 23). It should be noted that at the conclusion of negotiations on the Implementing Agreement both sides were explicitly aware that the dates were "placeholders" and would be updated once sufficient information was available.

Recommendation 5. Create a specific plan and take steps to formally coordinate DOE's program to assist Russia's closure of the three plutonium production reactors with the Department's effort to find jobs for displaced Russian nuclear workers through the Russian Transition Initiatives.

DOE Response. The DOE offices responsible for the EWGPP Program and the Russian Transition Initiatives (RTI) established a Coordinated Working Group in November 2003 and are finalizing a joint plan to coordinate efforts to identify projects that will assist with workforce transition in the cities of Seversk and Zheleznogorsk, while also helping to transition the economies of those cities away from their reliance on WMD related activities. Specific efforts are discussed in the response to Recommendation 6.

Recommendation 6. Take the lead in developing a comprehensive plan that focuses on integrating U.S. efforts to employ Russian nuclear workers in the cities of Seversk and Zheleznogorsk.

Now on p. 22.

DOE Response. DOE recognizes that Russian officials believe that finding work for displaced nuclear workers is their highest priority (page 25). To this end, EWGPP and NNSA's Russian Transition Initiatives (RTI) are finalizing a joint coordination plan to ensure that as EWGPP program milestones are met, the worker transition challenge is addressed in a systematic and comprehensive way. The first priority of this plan will be to establish a U.S>-Russian joint committee that will include representation from the closed cities. This committee would focus on data collection with respect to the number of displaced workers, the timing for their displacement, their skills, their weapons knowledge, and other key demographic information. This plan will be the blueprint to guide the establishment of a significant RI presence in Seversk, and a ramp-up of RTI activity in Zheleznogorsk. This plan will outline how DOE will build and apply its unique technical expertise and experience in downsizing and in pursuing infrastructure transformation in the close cities to ensure a smooth transition in the two cities

Now on p. 23.

DOE is also sponsoring an international participation initiative that will provide Russian organizations the opportunity to develop and present projects to the international community for sponsorship. As stated later in the draft report (page 26), DOE has arranged for the Government of Switzerland to host a conference of interested participants in October 2004. This effort is being coordinated with the Russian Transition Initiatives program . We expect that Russian organizations will present about 25 project proposals to 10 to 15 countries at the Swiss conference. This type of initiative was previously used successfully by the Department in obtaining support for closure of the Kazakhstan BN-350 Breeder Reactor.

In addition to these Departmental activities, one of EWGPP's contractors has enlisted the support of an international management consultant to evaluate commercial projects in the Zheleznogorsk region to provide jobs for displaced workers.

Recommendation 7. Consider seeking financial support from Russia to construct the replacement fossil fuel plants.

Now on p. 27.

DOE Response. As stated in the draft report (page 31), DOE is concerned that relying on Russian financial support for the program will delay accomplishment of the critical nonproliferation goal of shutting down the three production reactors at the earliest opportunity. However, program management will address the issue with Russian officials to determine if greater contributions can be obtained. It should be noted that the Federal Agency for Atomic Energy (the successor to MinAtom) is already making significant contributions. For example, the Agency acquired the Zheleznogorsk site and is performing the nuclear safety upgrades.

Recommendation 8. Monitor funding requirements to ensure that funds are obligated in a timely manner.

DOE Response. Program management is acutely aware of Congressional concern about obligation and expenditure rates. The EWGPP Program currently has a substantial amount of unobligated funds because (1) $74 million was transferred with the Program when it was transferred from DOD and (2) the projects have not reached the construction phase. Initiation of the construction phase of the Seversk project by years end will reduce unobligated balances in the short term in FY05 and uncosted balances thereafter.

Recommendation 9. Determine whether future funding requirements need to be reduced in light of the slow rate of spending to date on the program.

Now on pp. 6, 26, and 27.

DOE response. As discussed in the draft report (pages 9, 27 & 30), the cost estimate for the two projects has risen substantially from the original estimate of $466 million. This is primarily due to Russian inflation since the estimate was developed in 2001. More importantly, to meet the aggressive shutdown schedule, particularly for Seversk, DOE does not believe that there will be an opportunity to reduce future funding requirements. However, DOE will equally aggressively pursue cost savings opportunities, which do not adversely affect the schedule.

OTHER COMMENTS AND CLARIFICATIONS

Now on pp. 5, 16, 17, and 28.

Draft report statement 1. Russia's recent rejection of its proposal to reduce the amount of plutonium being produced by the reactors raises serious questions about its commitment to the nonproliferation goal of the program (draft report pages 7, 18, 20, & 32).

DOE comment. DOE does not draw the same conclusion GAO does from these actions. As discussed in the response to recommendation 1, we believe that the primary reason for the Russian action was concern over DOE access to nuclear facilities rather than a commitment to the nonproliferation goal of the program. This opinion is supported by the Russian decision to reject the DOE offer to fund nuclear safety upgrades that would have also required access to restricted facilities.

In addition, as stated in the draft report, the Russian letter rejecting the plutonium production initiative expressed concern about the diversion of resources from the primary goal of building the fossil fuel replacement plants. We believe that this reflects Russian impatience with the pace of the program as it has moved from a core conversion project to a fossil fuel project and from DOD to DOE. One Regional Governor may have stated it best when he told one of the U.S. contractors that "I have provided you with a site, when are you going to start construction?" In summary, we do not see evidence of a lack of commitment to nonproliferation goals as much as concerns about socio-economic issues.

Now on pp. 7 and 27.

Draft report statement 2. DOE plans to bear full financial responsibility for building the replacement fossil fuel plants, which will be designed and built by Russia (draft report pages 9 & 31).

DOE comment. As cited in the draft report, the cost estimate for the program has increased substantially from the original estimate of $466 million. As a result, DOE is in the process of soliciting financial support from several nations for the Zheleznogorsk fossil fuel plant. To this end, a request for legislative authority to accept direct contributions was included in the Department's FY 2005 budget submission.

Draft report statement 3. DOE's Assistant Deputy Administrator, Office of International Nuclear Safety and Cooperation, told us that he was very pessimistic that Russia would perform the (nuclear) safety upgrades.

DOE comment. The official quoted would like to clarify. He meant that he does not believe that Russian upgrades will be as proactive and comprehensive as the PNNL proposal.

Draft report statement 3. NNSA's Assistant Deputy Administrator, Office of International Nuclear Safety and Cooperation, told us that he was very pessimistic that Russia would perform the (nuclear) safety upgrades.

NNSA comment. The official quoted would like to clarify. He meant that he does not believe that Russian upgrades will be as proactive and comprehensive as the PNNL proposal.

Comments from the Department of State

United States Department of State
Assistant Secretary and Chief Financial Officer
Washington, D.C. 20520

MAY 17 2004

Ms. Jacqueline Williams-Bridgers
Managing Director
International Affairs and Trade
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "NUCLEAR NONPROLIFERATION: DOE's Effort to Close Russia's Plutonium Production Reactors Faces Challenges and Final Shutdown is Uncertain," GAO Job Code 360357.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Michael Stafford, U.S. Negotiator, Bureau of Nonproliferation, at (202) 647-0258.

Sincerely,

Christopher B. Burnham

cc: GAO – Glen Levis
NP – Andrew Semmel
State/OIG – Mark Duda
State/H – Paul Kelly

Department of State Comments on GAO Draft Report
NUCLEAR NONPROLIFERATION: DOE's Effort to Close Russia's Plutonium Production Reactors Faces Challenges, and Final Shutdown is Uncertain
(GAO-04-662, GAO Job Code 360357)

The Department of State appreciates the opportunity to review and comment on the draft report "Nuclear Nonproliferation: DOE's Effort to Close Russia's Plutonium Production Reactors Faces Challenges, and Final Shutdown is Uncertain." State believes that certain key conclusions in the report are either exaggerated or unwarranted, and further believes that the report does not support a judgment that final shutdown of the reactors is at risk. State does support all but one of the report's recommendations, however, and notes that it is already working with the Department of Energy and the Russian Federation to implement the steps that GAO recommends. Regarding the one recommendation State does not support, that the U.S. seek financial support from Russia to construct the replacement fossil fuel plants, we continue to believe that, if pursued, this would delay the realization of the program's overarching goal -- shutdown of the reactors. Instead, we are seeking financial support from other countries.

State objects most strenuously to GAO's conclusion that, because the Russians: (1) declined to pursue extended outages of the three reactors during the summer months prior to their shutdown (which would have reduced the amount of plutonium produced before shutdown), and (2) declined U.S. assistance for safety upgrades at the reactors prior to their shutdown, this indicates a lack of Russian commitment to the nonproliferation and safety-related goals of the program, thereby making the program "an increasingly risky undertaking."

- In drawing this conclusion, GAO emphasizes only selected parts of each Russian decision, providing an incomplete and misleading picture. While declining extended summer outages, the Russians at the same time agreed to pursue early shutdown of two of the three reactors, which would likewise serve the nonproliferation goal of reducing the amount of plutonium produced. Similarly, while they declined DOE assistance for safety upgrades, the Russians said they would finance safety upgrades themselves.

- Furthermore, GAO's conclusion that the Russian decisions reflected a lack of commitment to nonproliferation and safety is based on speculation by unidentified DOE technicians, whose views are not shared by either the State Department or DOE policy-level officials who dealt directly with the Russians on these policy issues. The preponderance of evidence, in our view, indicates strongly that the Russian decisions were motivated by their concerns about opening operating plutonium production reactors to U.S. officials to monitor implementation of summer outages or safety upgrades. The Russians consider such reactors to be highly sensitive national security facilities. Thus, we believe these decisions reflect Russian security considerations rather than their attitude toward nonproliferation or safety. In fact, the Russians continue to support those nonproliferation and safety-related elements that would not require monitoring of operating reactors, i.e., early shutdown and Russian-funded safety upgrades.

- Finally, and most importantly, the key to the program's success is the Russian commitment to the agreed outcome -- shutdown of the reactors -- not whether they may or may not share our reasons for that commitment. On this score, there are important reasons to remain confident in the Russian commitment. First, Russia does not need the plutonium produced by the reactors; in fact, we have been monitoring all such plutonium produced since 1995 to ensure that it remains in storage and unused. Second, the Russians themselves bear the greatest risk that these extremely unsafe reactors will suffer a catastrophic accident, a danger they take seriously, as we do. Third, absent this program, Russia would be hard-pressed to find the resources to provide alternative means of heat and electricity to the surrounding communities when the reactors would eventually be forced to shut down due to graphite stack deterioration. Therefore, implementation of the program is strongly in Russia's interests. Furthermore, the 1997 agreement that established the program, the Plutonium Production Reactor Agreement (PPRA), was signed at the highest levels of the two governments and linked to the Cooperative Threat Reduction (CTR) program. The consequences of any Russian decision to renege on the commitments therein, which would threaten the entire range of CTR assistance (approximately $1 billion per year) and more, serve as a powerful disincentive for such a prospect. Russian actions to date to implement this program reinforce

our belief that they remain strongly committed to achieving the agreed outcome.

State also objects to GAO's conclusion that final shutdown of the reactors is uncertain because the PPRA and its implementing agreement are insufficiently clear regarding the steps to be taken to permanently and irreversibly shut them down. The agreements are very explicit in obligating the Russians to shut the reactors down as soon as the replacement heat and electrical capacity is available, and in specifying deadlines for completion of these actions. Specific steps to complete creation of the replacement capacities and to effect the shutdown are appropriately specified in contracts and other implementation plans, and DOE is working with the Russians now to formulate these documents. This effort is clearly governed by the obligations and deadlines included in the agreements. As for ensuring irreversibility, the PPRA is quite clear on the steps to be taken. It specifies that, immediately upon their shutdown, the reactors will be covered by the monitoring regime applied to the currently shutdown reactors. This regime includes placement of seals on critical areas throughout the reactors that would have to be broken before the reactors could be restarted, and annual monitoring of the reactors to ensure that the seals remain intact and that no other steps have been taken toward a reactor restart. This regime has been applied to the currently shutdown reactors since 1997 with great success in order to ensure that their shutdown is irreversible, and we are confident that it will work equally well with the final three reactors.

State acknowledges that the deadlines for reactor shutdown currently specified in the agreements are no longer consistent with current plans, but believes GAO has greatly overstated the implications of this fact. When the currently specified deadlines were agreed upon by the U.S. and Russia in 2000, they represented our best estimate of the earliest dates when replacement fossil plants could be completed. We purposely chose ambitious deadlines to ensure that later dates did not become an excuse for delaying the program. The Russians and we also agreed that, as implementation plans were fleshed out, we would amend the agreements to revise the deadlines if it became apparent that the specified dates could not be achieved. The Russians and we plan to do so once designs are completed, which will give us a firmer basis for projecting completion dates. To do so sooner would only make likely that we would have to repeat the process once the designs were complete. The current situation is

thus one that was foreseen by both sides, and both sides have agreed to the process of adjustment. There is absolutely no reason, therefore, to believe that this is anything but a routine adjustment made during program implementation.

State also believes GAO is mistaken when it claims that worker displacement has the potential to undermine the program. Russia signed the PPRA at the highest level knowing that workers would be displaced by shutdown of the reactors and acknowledging that it was ultimately a Russian responsibility to address this problem. The U.S. has offered assistance, both through existing U.S. programs and by helping the Russians to seek aid from other countries, but the Russians have never tried to shift the ultimate responsibility from their own shoulders. It is clear to both sides that any attempt by Russia to use worker displacement as an excuse to renege on their PPRA commitments would constitute noncompliance with the agreement and trigger consequences, as described above, that would far exceed the cost of dealing with displaced workers.

Finally, State disagrees with the GAO recommendation that the U.S. consider seeking financial support from Russia to construct the fossil fuel plants. As GAO was told, we considered at the program's inception various ways in which Russia could provide support, and we concluded that any reliance on Russian funding for program elements that were critical to the construction schedule was bound to produce delays. This was because our long history of cooperation with Russia on related projects had shown that Russian funds were invariably provided either late or in amounts lower than promised, or both. In this case, that would mean that shutdown of the reactors -- the overarching purpose of this effort -- would be delayed. We concluded that avoiding such delays was more important than seeking what would surely be limited Russian cost-sharing. Instead, we agreed with the Russians that Russia would assume responsibility for actions that would not affect the construction schedule, including provision of infrastructure, decommissioning and dismantlement of the reactors after they were shut down, and operation and maintenance of the fossil plants once they were completed. State continues to believe that this course best serves our interests.

Instead of seeking direct Russian cost-sharing, DOE and State have begun efforts, as directed by Congress, to seek cost-sharing by other

nations, particularly those participating in the Global Partnership on Nonproliferation. The highest priority for such participation is funding to accelerate completion of the fossil plant, and thus shutdown of the reactor, at Zheleznogorsk. It is clear, however, that this funding would only accelerate the schedule if it could be provided without the delays that would occur if participating nations had to negotiate their own bilateral agreements with Russia. To avoid this, DOE would need to be able to accept the contributed funds directly and channel them to the project through the existing DOE-Minatom implementing agreement. DOE is currently not able legally to accept funding from sources outside the U.S. government for this program in this manner. Thus, legislative relief is needed. Without it, the funds would have to go through an entity such as the European Bank for Reconstruction and Development, which would use part of the money for overhead costs, a charge likely to discourage other countries from contributing. With legislative relief, DOE would be able to apply the full amount to the program.

DOE has proposed to Congress legislation that would give it the necessary authority, applicable only for this program and this purpose. State strongly supports the DOE proposal and believes that it is critical to realizing the paramount goal of this program: the earliest possible shutdown of the Russian reactors.

State supports GAO's other recommendations, and the Administration is taking or planning the following actions:

- As part of the implementation process, DOE and Minatom are currently developing a plan that fleshes out the specific steps that will be taken to put the fossil plants into operation and, simultaneously, effect shutdown of the reactors, in accordance with the obligations and deadlines specified in the PPRA and its implementing agreement.

- State plans to negotiate an amendment to the PPRA, per our agreement with the Russians, to reflect the new projected completion dates for the fossil plants, once the plant designs are completed. We anticipate that this will occur within the next year.

- State and DOE plan to develop a coordinated effort among the relevant programs, including the Russian Transition Initiatives program and the

International Science and Technology Center program, to assist Russia in addressing the worker displacement problem. In addition, State and DOE will continue helping Russia in its efforts to seek other international aid for this purpose.

GAO Contact and Staff Acknowledgments

GAO Contact

Jim Shafer, 202-512-3841.

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June 2004

HUMAN CAPITAL: DHS Faces Challenges In Implementing Its New Personnel System

United States General Accounting Office

GAO

Report to Congressional Requesters

June 2004

HUMAN CAPITAL

DHS Faces Challenges In Implementing Its New Personnel System



GAO-04-790

June 2004

HUMAN CAPITAL

DHS Faces Challenges in Implementing Its New Personnel System

GAO Highlights

Accountability • Integrity • Reliability

Highlights of GAO-04-790, a report to congressional requesters

Why GAO Did This Study

DHS was provided with significant flexibility to design a modern human capital management system. Its proposed system has both precedent-setting implications for the executive branch and far-reaching implications on how the department is managed. GAO reported in September 2003 that the effort to design the system was collaborative and consistent with positive elements of transformation. In February, March, and April 2004 we provided preliminary observations on the proposed human capital regulations.

Congressional requesters asked GAO to describe the infrastructure necessary for strategic human capital management and to assess the degree to which DHS has that infrastructure in place, which includes an analysis of the progress DHS has made in implementing the recommendations from our September 2003 report.

DHS generally agreed with the findings of our report and provided more current information that we incorporated. However, DHS was concerned about our use of results from a governmentwide survey gathered prior to the formation of the department. We use this data because it is the most current information available on the perceptions of employees currently in DHS and helps to illustrate the challenges facing DHS.

www.gao.gov/cgi-bin/getrpt?GAO-04-790.

To view the full product, including the scope and methodology, click on the link above. For more information, contact J. Christopher Mihm at (202) 512-6806 or mihmj@gao.gov.

What GAO Found

To date, DHS's actions in designing its human capital management system and its stated plans for future work on the system are helping to position the department for successful implementation. Nonetheless, the department is in the early stages of developing the infrastructure needed for implementing its new human capital management system.

- DHS has begun strategic human capital planning efforts at the headquarters level since the release of the department's overall strategic plan and the publication of proposed regulations for its new human capital management system. Strategic human capital planning efforts can enable DHS to remain aware of and be prepared for current and future needs as an organization. However, this will be more difficult because DHS has not yet been systematic or consistent in gathering relevant data on the successes or shortcomings of legacy component human capital approaches or current and future workforce challenges. Efforts are now under way to collect detailed human capital information and design a centralized information system so that such data can be gathered and reported at the departmentwide level.

- DHS and Office of Personnel Management leaders have consistently underscored their personal commitment to the design process. Continued leadership is necessary to marshal the capabilities required for the successful implementation of the department's new human capital management system. Sustained and committed leadership is required on multiple levels: securing appropriate resources for the design, implementation, and evaluation of the human capital management system; communicating with employees and their representatives about the new system and providing opportunities for feedback; training employees on the details of the new system; and continuing opportunities for employees and their representatives to participate in the design and implementation of the system.

- In its proposed regulations, DHS outlines its intention to implement key safeguards. For example, the DHS performance management system must comply with the merit system principles and avoid prohibited personnel practices; provide a means for employee involvement in the design and implementation of the system; and overall, be fair, credible, and transparent. The department also plans to align individual performance management with organizational goals and provide for reasonableness reviews of performance management decisions through its Performance Review Boards.

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G A O
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, D.C. 20548

June 18, 2004

The Honorable George V. Voinovich
Chairman, Subcommittee on Oversight of Government
Management, the Federal Workforce, and the
District of Columbia
Committee on Governmental Affairs
United States Senate

The Honorable Jo Ann Davis
Chairwoman, Subcommittee on Civil Service and
Agency Organization
Committee on Government Reform
United States House of Representatives

The creation of the Department of Homeland Security (DHS) is an historic opportunity for the federal government to fundamentally transform how the nation will protect itself from terrorism and other threats. DHS is in the early stages of transforming and integrating a disparate group of agencies with multiple missions, values, and cultures into a strong and effective cabinet department. Together with this unique opportunity, however, comes significant risk to the nation if this transformation is not implemented successfully. In fact, we designated this implementation and transformation as high risk in January 2003.[1]

On February 20, 2004, the Secretary of DHS and the Director of the Office of Personnel Management (OPM) released proposed regulations for DHS's new human capital system. Among other things, the proposal establishes a pay for performance system, a new adverse actions and appeals process, and new labor relations rules. The regulations provided the broad outline of the DHS proposed system. As the system evolves, critical issues, such as how DHS will link individual performance expectations to DHS's mission and goals, how it will define performance expectations to promote individual accountability, and how it will continue to incorporate adequate safeguards to ensure fairness, will need to be addressed. Such detailed implementation policies and procedures will need to be developed in a transparent and inclusive manner as the system evolves.

[1]U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Homeland Security*, GAO-03-102 (Washington, D.C.: January 2003).

In light of the challenge to establish a modern strategic human capital management system in the department, you asked that we undertake a series of engagements to assess and assist DHS in its implementation efforts. As agreed with your office, this is the third of several studies in which we examine how DHS begins to implement its new human capital system. Our first report, issued in September 2003, described the process DHS put in place to design its human capital system and involve employees and analyzed the extent to which the process reflected what we found to be important elements of successful transformations.[2] We found that, to date, the design effort was collaborative and facilitated participation of employees from all levels of the department. The effort also generally reflected what we have found to be important elements of effective transformations. Second, we provided our preliminary observations on selected major provisions of the proposed human capital regulations in a testimony and two related items of correspondence providing answers to post-hearing questions.[3] We found that many of the basic principles underlying the proposed regulations were consistent with proven approaches to strategic human capital management, and identified parts of the system that deserved further consideration.

As agreed with your offices, this third study describes the infrastructure necessary for strategic human capital management and assesses the degree to which DHS has that infrastructure in place, including progress DHS has made since our September 2003 report. More details on our scope and methodology can be found in appendix I and criteria used to evaluate the department's efforts are summarized in appendix II. We interviewed officials from DHS headquarters who are involved in designing the new human capital system. Human resource leaders from the five largest legacy components within DHS were also interviewed: the Transportation Security Administration (TSA), Federal Emergency Management Agency (FEMA), the organizations formerly known as the Immigration and Naturalization Service (INS) and the U.S. Customs Service (Customs), and

[2]U.S. General Accounting Office, *Human Capital: DHS Personnel System Design Effort Provides for Collaboration and Employee Participation*, GAO-03-1099 (Washington, D.C.: Sept. 30, 2003).

[3]U.S. General Accounting Office, *Human Capital: Preliminary Observations on Proposed DHS Human Capital Regulations*, GAO-04-479T (Washington, D.C.: Feb. 25, 2004); *Posthearing Questions Related to Proposed Department of Homeland Security (DHS) Human Capital Regulations*, GAO-04-570R (Washington, D.C.: Mar. 22, 2004); and *Additional Posthearing Questions Related to Proposed Department of Homeland Security (DHS) Human Capital Regulations*, GAO-04-617R (Washington, D.C.: Apr. 30, 2004).

the U.S. Coast Guard. This work was conducted from March 2003 through March 2004 in Washington, D.C., and in accordance with generally accepted government auditing standards.

The analysis of DHS's effort to design a strategic human capital management system can be particularly instructive for future human capital management and integration initiatives within specific units of DHS. We have consistently supported the need for government transformation and the concept of modernizing federal human capital policies, as underscored in recent testimonies and our January 2003 report that described why strategic human capital management remains a governmentwide high-risk area.[4] The DHS effort can also prove instructive as other agencies implement changes to their human capital management systems.

Results In Brief

DHS is in the early stages of developing the infrastructure needed for implementing its new human capital management system. At a minimum, this infrastructure includes a strategic human capital planning process that integrates the agency's human capital approaches with program goals, desired outcomes, and mission; the capabilities to effectively develop and implement a new human capital system; and a modern, effective, and credible performance management system that includes a set of institutional safeguards, including reasonable transparency and appropriate accountability mechanisms to ensure the fair, effective, and credible implementation of the new system. DHS's infrastructure development efforts include the following:

- DHS has begun strategic human capital planning efforts at the headquarters level since the release of the department's overall strategic plan and the publication of proposed regulations for its new human capital management system. In comparison, the five legacy agencies we studied each engage in strategic human capital planning activities, but their efforts vary in their level of detail, including the time frames covered by the plans and the degree to which future skill and

[4]U.S. General Accounting Office, *Human Capital: Building on DOD's Reform Effort to Foster Governmentwide Improvements*, GAO-03-851T (Washington, D.C.: June 4, 2003); *High-Risk Series: Strategic Human Capital Management*, GAO-03-120 (Washington, D.C.: January 2003); and *Managing for Results: Using Strategic Human Capital Management to Drive Transformational Change*, GAO-02-940T (Washington, D.C.: July 15, 2002).

competency needs are identified. DHS has not yet systematically gathered relevant human capital data at the headquarters level. However, efforts are now under way to collect detailed human capital information and design a centralized information system so that such data can be gathered and reported at the departmentwide level. These strategic human capital planning efforts can enable DHS to remain aware of and be prepared for current and future needs as an organization.

- DHS and OPM leaders have consistently underscored their personal commitment to the design process. Sustained and committed leadership is required on multiple levels: securing appropriate resources for the design, implementation, and evaluation of the human capital management system; communicating with employees and their representatives about the new system and providing opportunities for feedback; training employees on the details of the new system; and continuing opportunities for employees and their representatives to participate in the design and implementation of the system. In light of this challenge, DHS formed three teams to implement the human capital regulations, each of which are co-led by professional staff from DHS headquarters and a component agency.

- In its proposed regulations, DHS outlines its intention to implement key safeguards. For example, the DHS performance management system must comply with the merit system principles and avoid prohibited personnel practices; provide a means for employee involvement in the design and implementation of the system; and overall, be fair, credible, and transparent. The department also plans to align individual performance management with organizational goals and provide for reasonableness reviews of performance management decisions through its Performance Review Boards.

The proposed DHS human capital management system has both significant precedent-setting implications for the executive branch and far-reaching implications for how the department is managed. However, how it is done, when it is done, and the basis on which it is done can make all the difference in whether such efforts are successful. To date, DHS's actions in designing its human capital management system and its stated plans for future work on the system are helping to position the department for successful implementation.

In commenting on a draft of this report, DHS generally agreed with its findings. DHS comments provided more current information on implementation timelines and described further research conducted by the design teams between April and September 2003, which we have incorporated. In addition, DHS raised concerns about our use of data from the OPM governmentwide Federal Human Capital Survey (FHCS) since the survey was administered before the formation of DHS. Since the administration of the survey, DHS notes a significant amount of change has been made in the department. We agree that the department is making progress in designing its human capital system and outline in this report where the department is making strides. This report notes that the FHCS was conducted during the same time frame that the administration proposed legislation to form DHS. FHCS data are the most current information available on the perceptions of employees currently employed by DHS and are valuable because of their illustration of the challenges the department faces. DHS provided additional technical comments, which were incorporated where appropriate. Comments from DHS are provided in full in appendix III.

Background

Mission and Organization of DHS

The DHS strategic plan, released on February 23, 2004, includes the following mission statement: "We will lead the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the nation. We will ensure safe and secure borders, welcome lawful immigrants and visitors, and promote the free-flow of commerce." The strategic plan further identifies seven strategic goals: awareness, prevention, protection, response, recovery, service, and organizational excellence.

DHS is generally organized into four mission-related directorates: Border and Transportation Security, Emergency Preparedness and Response, Science and Technology, and Information Analysis and Infrastructure Protection. These directorates include the following legacy agencies:

- The Border and Transportation Security directorate consolidates the major border security and transportation operations under one roof, including legacy Customs, parts of the legacy INS, TSA, the Federal Law Enforcement Training Center, the Federal Protective Service, the Office

for Domestic Preparedness from the Department of Justice (DOJ), and part of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS). This directorate includes the newly formed Bureau of Immigration and Customs Enforcement (ICE) and the Bureau of Customs and Border Protection (CBP).

- The Emergency Preparedness and Response (EPR) directorate integrates domestic disaster preparedness training and government disaster response and includes FEMA, the Strategic National Stockpile, the National Disaster Medical System, the Nuclear Incident Response Team, the Domestic Emergency Support Teams from DOJ, and the National Domestic Preparedness Office from the Federal Bureau of Investigation (FBI).

- The Science and Technology directorate coordinates scientific and technological advantages for securing the homeland and includes the Chemical, Biological, Radiological, and Nuclear Countermeasures Programs, the Environmental Measurements Laboratory, the National Bio-Weapons Defense Analysis Center, and the Plum Island Animal Disease Center.

- The Information Analysis and Infrastructure Protection directorate accesses and analyzes intelligence, law enforcement data, and other information involving threats to homeland security and evaluates vulnerabilities from state and local agencies, the private sector, and federal agencies such as the Central Intelligence Agency, FBI, and the National Security Agency. It includes the Critical Infrastructure Assurance Office, the Federal Computer Incident Response Center, the National Communications System, the National Infrastructure Protection Center, and the energy security and assurance program activities of the Department of Energy.

- In addition to the mission directorates, the Management Directorate, led by the Undersecretary for Management, is responsible for integrating the activities of the Chief Financial Officer, the Chief Procurement Officer, the Chief Human Capital Officer, the Chief Information Officer, and the Chief of Administrative Services.

In addition to the four mission-related directorates, the U.S. Secret Service and the U.S. Coast Guard remain intact as distinct entities in DHS. The Bureau of Citizenship and Immigration Services, composed of legacy INS adjudications and benefits programs, reports to the Deputy Secretary.

DHS's People

DHS has just under 158,000 civilian employees.[5] Of the civilian employees, a vast majority transferred from seven organizations: TSA, INS, Customs, FEMA, the U.S. Coast Guard, the Secret Service, and APHIS. Of the civilian employees who transferred from these seven organizations, approximately 90 percent are stationed outside the Washington, D.C. metropolitan area. These employees hold positions ranging from inspectors, investigators, police and intelligence to attorneys and administrative services.

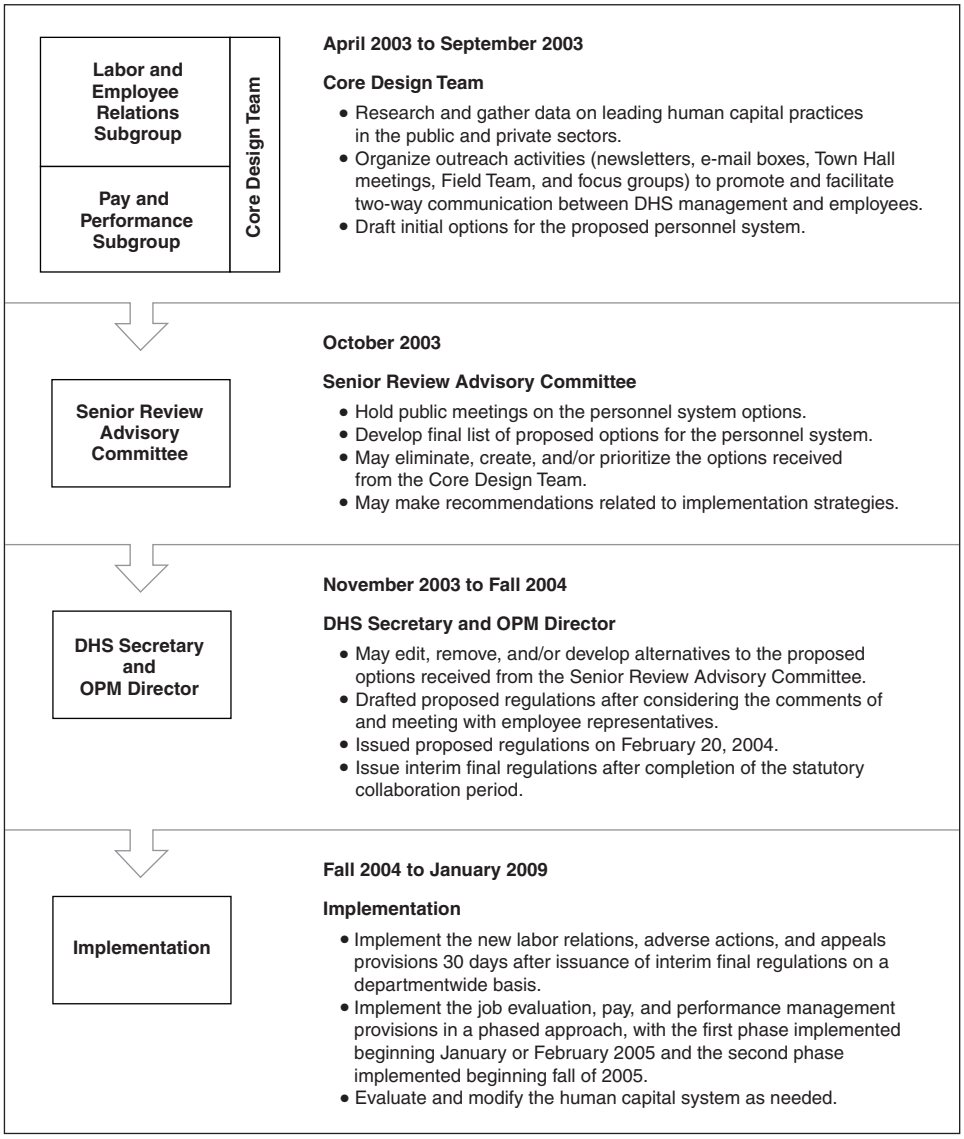
According to OPM, just over 49,000, or just under one-third, of DHS civilian employees are represented by unions. This includes 16 different unions divided into 75 separate bargaining units. The 3 unions representing the largest number of employees are the American Federation of Government Employees, the National Treasury Employees Union, and the National Association of Agricultural Employees.

Process Used to Design the Human Capital System

The design process of the DHS human capital management system included DHS and OPM employees and union representatives. Figure 1 describes the development of the DHS human capital system.

[5]According to OPM's Central Personnel Data File (CPDF), as of December 2003. This represents the number of DHS federal employees. For more information on the CPDF, see appendix I.

Figure 1: The Development of the DHS Human Capital System



Source: GAO.

DHS Is Beginning Strategic Human Capital Planning Efforts

Using the department's strategic plan as a starting point, DHS recently began drafting a strategic human capital plan and a more detailed workforce plan for the department. One of the goals of the strategic plan, organizational excellence, makes it a priority for the agency to value its people and create a culture that promotes a common identity, innovation, mutual respect, trust, accountability, and teamwork. To support the accomplishment of this goal, the department has an objective focused on ensuring effective recruitment, development, compensation, succession management, and leadership of a diverse workforce to provide optimal service at a responsible cost. While the plan broadly states a few strategies that could be used to achieve this objective, it does not identify the skills needed, resources required, or timetables associated with the strategies. Additional programmatic objectives within the strategic plan will require human capital approaches to ensure they are realized.

The Director for Human Resources Policy and the Senior Advisor for Human Resources Policy said that the strategic human capital plan will be completed later this spring and will include goals for transforming the human capital management of the department over the next 5 years. These same officials report that this will be a "living document" and expect that revisions will be made as they learn more about the human capital needs across the department.

Below the headquarters level, strategic human capital planning of different levels of detail is being done in the five legacy components we studied. These plans vary in terms of the time frame covered by the plan and the degree to which future skill and competency needs are identified.

- In July 2003, FEMA/EPR released a 5-year strategic human capital plan that identified the challenges it faces, improvement initiatives, and outcome measures for the initiatives. A timeline and the unit responsible for implementation are also identified. Part of FEMA's "Model for Success" articulates the need to identify strategic competencies. The plan states that FEMA intends to integrate its competency management system with future workforce planning efforts. According to agency officials, FEMA was invited to present its Competency Assessment System to the DHS Human Capital Management Forum and OPM.

- Customs/CBP workforce planning efforts are currently short-term and tactical in nature. The component does not have a consolidated plan

that identifies human capital needs or strategies and the planning horizon is less than 1 year in duration. Instead, CBP informally sets annual targets for various human capital activities that are articulated in various agency meetings and memoranda. Progress towards the targets is tracked in a biweekly report that includes information such as changes in staffing levels, retirement eligibilities, and the gender breakdown of the workforce.

- INS/ICE officials reported that they used workforce plans to respond to Congressional mandates in managing large-scale recruiting and retention efforts, beginning in 1996. It released a 3-year plan in June 1996 to manage this growth, placing a priority on deployment, recruiting, hiring, and training strategies. Since the original release of the plan, it has been updated annually through individual memoranda and charts reflecting current human capital data. According to an agency official, the component is working with a contractor to identify a baseline understanding of workforce demographics and skills and determine future workforce requirements.

- TSA hired a consultant in September 2003 to conduct a study of screener staffing levels at the nation's commercial airports in an effort to right-size and stabilize its screener workforce. Among the tasks the contractor is to complete are the implementation of a staffing analysis model to be used as a management tool to determine daily and weekly staffing levels and the deployment of the model to commercial airports nationwide.

- The Coast Guard has a 5-year strategic human capital plan covering the period 2001 to 2005 that integrates approaches for managing military, civilian, and reserve employees. Identified within the plan are current challenges and desired characteristics for the workforce of the future. Strategies are adjusted annually and the objectives and approaches are continuously evaluated for their impact so that midcourse corrections can be made if necessary, according to an agency official. The Coast Guard plans to do a major update of its plan once the department's human capital system is completed.

DHS headquarters has not yet been systematic or consistent in gathering relevant data on the successes or shortcomings of legacy component human capital approaches or current and future workforce challenges, despite the potential usefulness of this information to strategic human capital planning activities. Efforts are now under way to gather such data.

During the design process, from April through September 2003, the subgroups that identified options for the human capital system gathered an extensive amount of research on innovative practices outside of DHS and basic demographic data on employees in the department. DHS also reported that it gathered policy documents from legacy components and specifically noted meeting with TSA, Coast Guard, legacy Customs, and FEMA to understand their policies and practices. However, at a briefing for DHS stakeholders in August 2003, DHS and OPM officials said that they did not evaluate the successes or shortcomings of legacy agency human capital approaches or current and future workforce challenges, nor had they analyzed the results from the OPM FHCS.

The department is now beginning to collect more detailed, internal human capital data, according to one DHS official. With the support of a contractor, focus groups are planned for this summer so that human capital challenges can be identified and validated. According to the same official, the Chief Human Capital Officer is holding monthly meetings to spotlight the successful practices of components within the department and disseminate best practices. Moving forward, the department plans to design a centralized information system so that human capital data can be gathered and reported at the corporate level.

With this information, the department will be better positioned to conduct data-driven evaluations of the successes and shortcomings of its new human capital management system. DHS documents indicate that the department is committed to an ongoing comprehensive evaluation of the effectiveness of the human capital system. The department described efforts to identify human capital metrics and an intent to use employee surveys to gauge employee satisfaction and needs. We testified that DHS should consider doing evaluations that are broadly modeled on the evaluation requirements of the OPM demonstration projects.[6] Under the demonstration project authority, OPM requires agencies to evaluate and periodically report on results, implementation of the demonstration project, cost and benefits, impacts on veterans and other equal employment opportunity groups, adherence to merit system principles, and the extent to which the lessons from the project can be applied governmentwide. A set of balanced measures addressing a range of results and customer, employee, and external partner issues may also prove beneficial. An evaluation such as this would facilitate congressional

[6]GAO-04-479T.

oversight; allow for any midcourse corrections; assist DHS in benchmarking its progress with other efforts; and provide for documenting best practices and sharing lessons learned with employees; stakeholders; other federal agencies; and the public. We have reported on key principles for effective strategic human capital planning and the importance of data-driven human capital decision making (see app. II).[7]

Continued Leadership Is Necessary to Marshal the Capabilities Required for Successful Implementation

DHS and OPM leaders have consistently underscored their personal commitment to the design process and speak openly in support of it. As we have reported, this is a very positive start. DHS will need to sustain this effort to overcome the views reflected in the OPM FHCS,[8] administered prior to the formation of DHS, in which employees now in the department responded with the following perceptions:

- 28 percent believe that leaders generate high levels of motivation and commitment in the workforce, compared to a governmentwide response of 36 percent;[9]
- 35 percent hold their leaders in high regard, compared to a governmentwide response of 43 percent; and
- 43 percent believe their organization's leaders maintain high standards of honesty and integrity, compared to a governmentwide response of 47 percent.

[7]U.S. General Accounting Office, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, GAO-04-39 (Washington, D.C.: Dec. 11, 2003), and *A Model of Strategic Human Capital Management*, GAO-02-373SP (Washington, D.C.: Mar. 15, 2002).

[8]The DHS responses reported by the 2002 OPM FHCS approximate the views of some, but not all, employees now at DHS. For example, TSA screeners were not hired at the time of the survey. Also, though APHIS employees were divided between DHS and the U.S. Department of Agriculture (USDA), the APHIS respondents included those remaining at USDA. Additionally, the survey was conducted during the same time frame that the administration proposed legislation to form DHS; thus, the opinions expressed by the respondents to the survey were before the formation of DHS. The objective, scope, and methodology for the 2002 OPM FHCS is described in more detail in GAO-04-479T.

[9]In all instances, comparing DHS's results to the OPM FHCS governmentwide average, DHS results are fewer by a statistically significant amount, according to analysis presented on OPM's Web site. Statistics are rounded to the nearest whole number. The governmentwide response includes all respondents except for those transferred to DHS.

Resources. DHS is recognizing that there are up-front costs to design and implementation and that its components are starting from different places regarding the maturity of their human capital management systems. Members of the Senior Review Advisory Committee agreed during their deliberations that creating the new human capital management system will require a substantial investment, and identified this as a core principle for the design of the system. Additionally, during the DHS focus groups, employees expressed an interest in increasing the resources available for training and professional development, and noted the importance of having an adequate budget for the performance management system in particular.[10]

The administration recognizes the importance of funding this major reform effort and has requested, for fiscal year 2005, $102.5 million to fund training, the development of the performance management and compensation system, and contractor support, and over $10 million for a performance pay fund in the first phase of implementation (affecting about 8,000 employees) to recognize those who meet or exceed expectations.[11] Approximately $20 million was also requested to fund the development of a departmental human resources information technology system. While the investments are important to the ultimate success of DHS's efforts, it is equally important to recognize that certain costs are one-time in nature and, therefore, should not be built into the base of DHS's budget for future years.

Communication. In our September 2003 report, we commended the structured approach the department developed to communicate with stakeholders on the human capital system and recommended that the Secretary of DHS ensure that the message communicated across the department was consistent. Officials we interviewed in five legacy components of the department agreed that communication from DHS headquarters on the human capital system has been consistent. In particular, three noted that the information contained in the weekly departmental newsletter is helpful. As an example of the consistency of the communication on the new human capital management system,

[10]The objective, scope, and methodology for the DHS focus groups are described in more detail in GAO-04-479T.

[11]According to agency officials, the training costs do not include the time employees are expected to spend in training or the costs associated with using training resources already in the department.

between December 5, 2003 and February 27, 2004, employees were assured in five different newsletters that the new human capital system would not lead to a loss in pay or benefits and four different newsletters reported that no layoffs would result due to the implementation of the new system. To ensure the consistency of the message, a Communications Coordination Team, which includes members from across the department, has been established to disseminate information and promote a clear understanding of the new human capital system. This team meets biweekly or weekly and is co-chaired by the Director of Internal Communications and the Director of Human Resource Management.

In our September report we also recommended that the department maximize opportunities for two-way communication and employee involvement through the completion of the design process and implementation, and noted that special emphasis should be placed on seeking the feedback and buy-in of front-line employees in the field. Opportunities for two-way communication were limited between the conclusion of the town hall meetings in July 2003 and the publishing of the proposed regulations in February 2004. The primary means for employees to provide feedback was through the Human Resources Design Team e-mail box. Employees and the general public were also allowed to participate in the public comment period of the Senior Review Advisory Committee meetings in October 2003. While the department continued to consult intermittently with leaders of the three major unions during this period, one agency official noted that the department does not have a similar mechanism in place to obtain feedback from nonunionized employees. One action taken to overcome this challenge was the effort to notify employees how to comment on the proposed regulations, which was communicated in six different newsletters between February 13 and March 22, 2004. DHS received over 3,400 comments on its proposed regulations, in part due to its efforts to encourage employees to submit comments on the system.

Since the release of the proposed regulations, DHS has provided information to employees through a variety of formats. For example, a link to the proposed human capital regulations was placed in a prominent position on the intranet home page of the department for easy access. On February 13, 2004, a satellite broadcast outlined the major features of the human capital management system, reaching approximately 500 DHS locations around the country. During the broadcast, employees submitted questions, and those unable to view the broadcast could access it through the DHS Internet Web site. Additionally, a senior leadership conference

was held, in part, to brief executives on the proposed system. The department has developed tool kits to provide information to both executives and line managers about the changes and to provide them with talking points for discussion with their employees and developed a quad-fold to distribute to line employees containing questions and answers about the new system. Town hall meetings that were held around the country to mark the one-year anniversary of the department included discussions about the proposed human capital system. Finally, between February 13 and March 22, 2004, the time in which employees could submit comments on the proposed regulations, the weekly DHS newsletter included answers to commonly asked questions and details on what would be changed and remain the same under the proposal.

The success of DHS communication efforts is especially important, given employee responses to the OPM FHCS:

- 40 percent report that managers promote communication among different work units, which is less than the governmentwide response of 51 percent;

- 65 percent feel they have enough information to do their job well, which is less than the governmentwide response of 71 percent; and

- 37 percent are satisfied with the information they receive from management on what is going on in the organization, which is less than the governmentwide response of 45 percent.

Training. Members of the Senior Review Advisory Committee identified training and development as a critical component for implementing the human capital system. Furthermore, participants in the DHS focus groups expressed a need for training and professional development opportunities in a number of areas, including general supervisory capabilities, assessing employee performance, labor-management relations, and alternative dispute resolution. The DHS proposal correctly recognizes that a substantial investment in training is a key aspect of implementing a performance management system. The need for in-depth and varied training will continue as the system is implemented, as indicated by results from the OPM FHCS in which 53 percent of respondents believe supervisors/team leaders in their work unit encourage their development at work, which is less than the governmentwide response of 59 percent. Furthermore, 47 percent feel they are given a real opportunity to improve their skills, which is less than the governmentwide response of 57 percent.

Our recently released guides for agencies to help ensure investments in training and development are targeted strategically and could prove helpful to DHS as it develops its training and development programs.[12]

Employee Participation. The Undersecretary for Management has already noted her commitment to move forward on implementing the human capital system in a collaborative way, and reiterated that support in a December 19, 2003 memorandum to DHS employees regarding the human capital system. Regardless of whether it is a part of collective bargaining, involving employees in such important decisions as how they are deployed and how work is assigned is critical to the successful operations of the department. This is likely to be a significant challenge for the department in light of employee responses to the OPM FHCS in which 28 percent of DHS employees indicated a feeling of personal empowerment, which is fewer than the governmentwide response of 40 percent. Additionally, 44 percent of DHS employees reported satisfaction with their involvement in decisions that affect their work, compared to 53 percent governmentwide.

Implementation Teams. DHS formed three implementation teams at the end of February 2004 to support the design and implementation of the human capital management system because of the multiple areas that require management attention. This includes a Training and Communications team; a Pay, Performance, and Classification team; and a Labor Relations, Adverse Actions, and Appeals team. According to agency officials, the teams will initially focus their efforts on data collection and project planning activities until the department issues interim final regulations for the human capital management system, at which time the teams will begin to draft departmental policies to support implementation. Agency officials reported that, as they move forward, they will pay particular attention to how their decisions may affect other human capital approaches across the department.

The mission of the Training and Communications team is to develop comprehensive communication and training plans, coordinate and manage the development of training, coordinate the delivery of training, and to disseminate information related to the design and implementation of the

[12]U.S. General Accounting Office, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*, GAO-04-546G (Washington, D.C.: March 2004); and *Human Capital: Selected Agencies' Experiences and Lessons Learned in Designing Training and Development Programs*, GAO-04-291 (Washington, D.C.: Jan. 30, 2004).

department's human capital system. The co-leads of the team said their work largely depends on the efforts of the other two implementation teams and acknowledged the concerns raised by employees on the need for training, especially for departmental managers. They also said they plan to rely on the training capacity already in the department. A second goal is for the team to ensure that communication with employees about the new human capital management system is coordinated and consistent across components and to ensure that avenues are available for DHS employees to communicate ideas to the implementation teams.

The mission of the Pay, Performance, and Classification team is to design departmental policies, procedures, guidance, implementation instructions, and evaluation criteria so that components can implement new systems in the areas of pay, performance management, and classification. The team is beginning its work by gathering information in these areas from departmental components and defining the system objectives. Officials noted this would be a significant challenge because of differences in the types of data collected, the varied manner in which the data are stored, and uneven levels of data reliability. As the team develops its proposals, it plans to use advisory groups to evaluate the efficacy of draft policies. Particular attention will be paid to ensuring there are adequate safeguards in the classification, pay, and performance management systems, according to officials.

The mission of the Labor Relations, Adverse Actions, and Appeals team is to prepare rules, regulations, policies, procedures, guidance, implementing instructions, and evaluation criteria for the department to deploy new systems in these areas. The co-leads noted that they intend to work collaboratively to design systems that encourage cooperation. These officials reported that their initial tasks are to explore how to staff different boards and panels identified in the proposed regulations and determine how to transition pending cases to the new system. They further plan to identify elements that require departmental-level guidance, identify elements where policy variation is appropriate among departmental components, and collect data on historical levels of grievances and appeals to forecast the potential workload once the department is transitioned to the new system.

The composition of the implementation teams sends an important signal. Each of the three implementation teams is co-led by professional staff from DHS headquarters and a component agency. As of mid-March 2004, officials noted the membership of the teams was still evolving, but was

composed mainly of human capital professionals. Agency officials noted that decisions had not yet been made about the level of involvement of union officials. These same officials reported that OPM staff would serve as advisers when needed as opposed to participating on a full-time basis, and noted an intention to pull together groups of employees to serve as "sounding boards and challenge groups" throughout the process. Contractors will be integrated with the teams to provide project management and other support.

As DHS moves forward, it may find helpful a set of key capabilities that our work has found to be central to the use of human capital authorities.[13] These practices center on effective planning and targeted investments, employee training and participation, and accountability and cultural change (see app. II).

DHS Proposes Implementing Key Safeguards

In its proposed regulations, DHS outlines its intention to implement key safeguards that we have found essential to implementing performance management systems in a fair, effective, and credible manner. For example, the DHS performance management system must comply with the merit system principles and avoid prohibited personnel practices; provide a means for employee involvement in the design and implementation of the system; and overall, be fair, credible, and transparent. The department also plans to align individual performance management with organizational goals and provide for reasonableness reviews of performance management decisions through its Performance Review Boards. Moreover, employees and their union representatives played a role in shaping the design of the proposed systems. These safeguards are generally consistent with our work identifying key practices that leading public sector organizations here and abroad have used in their performance management systems to link organizational goals to individual performance and create a "line of sight" between an individual's activities and organizational results (see app. II).[14]

[13]U.S. General Accounting Office, *Human Capital: Effective Use of Flexibilities Can Assist Agencies in Managing Their Workforces*, GAO-03-2 (Washington, D.C.: Dec. 6, 2002).

[14]U.S. General Accounting Office, *Results-Oriented Cultures: Creating a Clear Linkage between Individual Performance and Organizational Success*, GAO-03-488 (Washington, D.C.: Mar. 14, 2003).

Our February 2004 testimony identified additional steps DHS could take to build safeguards into its revised performance management system.[15] For example, we suggested that DHS commit to publishing the results of the performance management process to assure reasonable transparency and provide appropriate accountability mechanisms in connection with the results of the performance management process. This can include publishing overall results of performance management and individual pay decisions while protecting individual confidentiality and reporting periodically on internal assessments and employee survey results relating to the performance management system. Publishing the results in a manner that protects individual confidentiality can provide employees with the information they need to better understand the performance management system.

Conclusions

The proposed DHS human capital management system has both significant precedent-setting implications for the executive branch and far-reaching implications on how the department is managed. However, how it is done, when it is done, and the basis on which it is done can make all the difference in whether such efforts are successful. To date, DHS's actions in designing its human capital management system and its stated plans for future work on the system are positioning the department for successful implementation. Looking forward, DHS will need to make continued progress in a number of key areas including the following.

- Strategic workforce planning and the gathering of relevant human capital data -- Strategic human capital planning activities can enable the department to capitalize on the strengths of its workforce and address challenges in a manner that is clearly linked to achieving DHS's mission and goals. The potential for human capital planning activities to positively impact the department, however, depends on its gathering of valid, reliable data on workforce demographics and the successes and shortcomings of new approaches at the headquarters level.

- Communication and training -- As we previously noted, communicating with employees and their representatives about the new system and providing opportunities for feedback, placing a special emphasis on reaching out to line employees in the field, can facilitate gaining

[15] GAO-04-479T.

employee buy-in to the new human capital management system. Additionally, the delivery of training on the new system can enable employees to understand their rights and how the agency will use its authority.

- Safeguards -- Publishing the results of the performance management process can provide employees with the information they need to better understand the performance management system and make the system more transparent.

Agency Comments and Our Evaluation

In commenting on a draft of this report, DHS generally agreed with its findings. DHS comments provided more current information on implementation timelines and described further research conducted by the design teams between April and September 2003, which we have incorporated. In addition, DHS raised concerns about our use of data from the OPM governmentwide FHCS since the survey was administered before the formation of DHS. Since the administration of the survey, DHS notes a significant amount of change has been made in the department. We agree that the department is making progress in designing its human capital system and outline in this report where the department is making strides. This report notes that the FHCS was conducted during the same time frame that the administration proposed legislation to form DHS. FHCS data are the most current information available on the perceptions of employees currently employed by DHS and are valuable because of their illustration of the challenges the department faces. DHS provided additional technical comments, which were incorporated where appropriate. Comments from DHS are provided in full in appendix III.

As agreed with your offices, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from its date. At that time, we will send copies of this report to the Chairman and Ranking Minority Member, Senate Committee on Governmental Affairs; the Chairman and Ranking Minority Member, House Committee on Government Reform; the Chairman and Ranking Minority Member, House Select Committee on Homeland Security; and other interested congressional parties. We will also send copies to the Secretary of the Department of Homeland Security and the Director of the Office of Personnel Management. Copies will be made available at no charge on the GAO Web site at http://www.gao.gov.

If you have any questions about this report, please contact me on (202) 512-6806. Key contributors to this report are listed in appendix IV.



J. Christopher Mihm
Managing Director, Strategic Issues

Scope and Methodology

Scope

This work was conducted from March 2003 through March 2004 in accordance with generally accepted government auditing standards. We performed our work in the Washington, D.C., metropolitan area in the headquarters offices of Department of Homeland Security (DHS) and the five largest legacy components that transferred to the department: The Transportation Security Administration (TSA), the Federal Emergency Management Agency (FEMA), the organizations formerly known as the Immigration and Naturalization Service (INS) and the U.S. Customs Service, and the U.S. Coast Guard.

Methodology

To address our objective, we examined the workforce planning efforts of the five largest legacy components that transferred to the department. Data on workforce planning and capabilities needed for successful human capital management were supplemented by information gathered in interviews with officials from DHS headquarters and the five legacy components. A standard set of questions was used for interviewing the legacy components. Interviews with the components were conducted between January and February 2004. Presentations made by DHS and the Office of Personnel Management (OPM) in August 2003 were evaluated to understand the level of data analysis conducted during system design. We were observers at the August 2003 briefing. We also examined the transcripts and report summarizing the proceedings of the Senior Review Advisory Committee meetings in October 2003 and relevant issues of the weekly DHS newsletter. Our findings were analyzed against criteria articulated in relevant GAO human capital reports.

To be responsive to your particular interest in seeking out and incorporating employee perspectives on the human capital system, we gathered information on employee perceptions from a variety of sources and presented these findings throughout the report. Insights into employee opinions were gathered from the OPM Federal Human Capital Survey, administered between May and August 2002, and a DHS report summarizing findings from the department's focus groups held during the summer of 2003. A description of the objective, scope, methodology, and limitations of these two studies was detailed in appendix I of *Human Capital: Preliminary Observations on Proposed DHS Human Capital Regulations* (GAO-04-479T).

In the background section of this report, we cite information from OPM's Central Personnel Data File (CPDF). The CPDF contains personnel data

for most employees of the executive branch. The largest executive branch employee groups not included are in the intelligence agencies (CIA, etc.) and the Postal Service. Agencies submit data to the CPDF at the end of each fiscal quarter. We have found the CPDF to be sufficiently reliable for the purposes of this report.[1]

[1]U. S. General Accounting Office, *OPM's Central Personnel Data File: Data Appear Sufficiently Reliable to Meet Most Customer Needs*, GAO/GGD-98-199 (Washington, D.C.: Sept. 30, 1998).

Criteria Used for Evaluation

The success of DHS's efforts to design and implement its new human capital system depends, in part, on building and maintaining an institutional infrastructure to make effective use of its flexibilities. At a minimum, this infrastructure includes a strategic human capital planning process that integrates the agency's human capital approaches with program goals, desired outcomes, and mission; the capabilities to effectively develop and implement a new human capital system; and a modern, effective, and credible performance management system that includes a set of institutional safeguards, including reasonable transparency and appropriate accountability mechanisms to ensure the fair, effective, and credible implementation of the new system.

Strategic Human Capital Planning

Strategic workforce planning is the first essential element of the institutional infrastructure that an agency needs to ensure that its human capital program capitalizes on its workforce's strengths and addresses related challenges in a manner that is clearly linked to achieving the agency's mission and goals. Strategic workforce planning addresses two critical needs: (1) aligning an organization's human capital programs with its current and emerging mission and programmatic goals and (2) developing long-term strategies for acquiring, developing, and retaining staff to achieve programmatic goals.[1]

At its core, strategic workforce planning, also called human capital planning, focuses on developing long-term strategies for acquiring, developing, and retaining an organization's total workforce (including full- and part-time federal staff and contractors) to meet the needs of the future. We recently described five principles for strategic workforce planning.[2]

- Involve top management, employees, and other stakeholders in developing, communicating, and implementing the strategic workforce plan.
- Determine the critical skills and competencies that will be needed to achieve current and future programmatic results.

[1]U.S. General Accounting Office. *Human Capital: Key Principles for Effective Strategic Workforce Planning*, GAO-04-39 (Washington, D.C.: Dec. 11, 2003).

[2]GAO-04-39.

- Develop strategies that are tailored to address gaps in the number and deployment of employees and the alignment of human capital approaches for enabling and sustaining the contributions of all critical skills and competencies.

- Build the capability needed to address administrative, educational, and other requirements important to support workforce strategies.

- Monitor and evaluate the agency's progress towards its human capital goals and the contribution that human capital results have made toward achieving programmatic goals.

Consistent with these principles, we have identified that one of the critical success factors for strategic human capital planning is data-driven human capital decision making.[3] A fact-based, performance-oriented approach to human capital management is crucial for maximizing the value of human capital as well as managing risk. High-performing organizations use data to determine key performance objectives and goals that enable them to evaluate the success of their human capital approaches. Valid and reliable data are critical to assessing an agency's workforce requirements and heighten an agency's ability to manage risk by allowing managers to spotlight areas for attention before crises develop and identify opportunities for enhancing agency results. Reporting on the results of these evaluations can facilitate congressional oversight of the system, allow for midcourse corrections, and serve as a tool for documenting best practices and sharing lessons learned with employees, stakeholders, other federal agencies, and the public.

Key Capabilities for Implementing Human Capital Approaches

As DHS moves forward, it may find helpful a key set of capabilities that our work has found to be central to the use of human capital authorities.[4] These practices center on effective planning and targeted investments, employee participation and training, and accountability and cultural change.

[3]U.S. General Accounting Office, *A Model of Strategic Human Capital Management*, GAO-02-373SP (Washington, D.C.: Mar. 15, 2002).

[4]U.S. General Accounting Office, *Human Capital: Effective Use of Flexibilities Can Assist Agencies in Managing Their Workforces*, GAO-03-2 (Washington, D.C.: Dec. 6, 2002).

- Plan strategically and make targeted investments
 - Obtain agency leadership commitment
 - Determine agency workforce needs using fact-based analysis
 - Develop strategies that employ appropriate flexibilities to meet workforce needs
 - Make appropriate funding available

- Ensure stakeholder input in developing policies and procedures
 - Engage the human capital office
 - Engage agency managers and supervisors
 - Involve employees and unions
 - Use input to establish clear, documented, and transparent policies and procedures

- Educate managers and employees on the availability and use of flexibilities
 - Train human capital staff
 - Educate agency managers and supervisors on existence and use of flexibilities
 - Inform employees of procedures and rights

- Streamline and improve administrative processes
 - Ascertain the source of existing requirements
 - Reevaluate administrative approval processes for greater efficiency
 - Replicate proven successes of others

- Build transparency and accountability into the system
 - Delegate authority to use flexibilities to appropriate levels within the agency
 - Hold managers and supervisors directly accountable
 - Apply policies and procedures consistently

- Change the organizational culture
 - Ensure involvement of senior human capital managers in key decision-making processes
 - Encourage greater acceptance of prudent risk taking and organizational change
 - Recognize differences in individual job performance and competencies

Institutionalizing Performance Management Safeguards

We testified last spring that Congress should consider establishing statutory standards that an agency must have in place before it can implement a more performance-based pay program and developed an initial list of possible safeguards to help ensure that pay for performance systems in the government are fair, effective, and credible.[5]

- Assure that the agency's performance management systems (1) link to the agency's strategic plan, related goals, and desired outcomes and (2) result in meaningful distinctions in individual employee performance. This should include consideration of critical competencies and achievement of concrete results.

- Involve employees, their representatives, and other stakeholders in the design of the system, including having employees directly involved in validating any related competencies, as appropriate.

- Assure that certain predecisional internal safeguards exist to help achieve the consistency, equity, nondiscrimination, and nonpoliticization of the performance management process (e.g., independent reasonableness reviews by Human Capital Offices and/or Offices of Opportunity and Inclusiveness or their equivalent in connection with the establishment and implementation of a performance appraisal system, as well as reviews of performance rating decisions, pay determinations, and promotion actions before they are finalized to ensure that they are merit-based; internal grievance processes to address employee complaints; and pay panels whose membership is predominately made up of career officials who would consider the results of the performance appraisal process and other information in connection with final pay decisions).

- Assure reasonable transparency and appropriate accountability mechanisms in connection with the results of the performance management process. This can include reporting periodically on internal assessments and employee survey results relating to the performance management system and publishing overall results of performance management and individual pay decisions while protecting

[5]U.S. General Accounting Office, *Defense Transformation: Preliminary Observations on DOD's Proposed Civilian Personnel Reforms*, GAO-03-717T (Washington, D.C.: Apr. 29, 2003).

individual confidentiality. Publishing the results in a manner that protects individual confidentiality can provide employees with the information they need to better understand the performance management system.

While incorporating these safeguards into performance management systems, our work indicates that there is a set of key practices for agencies to create a clear linkage, or "line of sight," between individual performance and organizational success.[6] These key practices include the following.

1. Align individual performance expectations with organizational goals. An explicit alignment helps individuals see the connection between their daily activities and organizational goals.

2. Connect performance expectations to crosscutting goals. Placing an emphasis on collaboration, interaction, and teamwork across organizational boundaries helps strengthen accountability for results.

3. Provide and routinely use performance information to track organizational priorities. Individuals use performance information to manage during the year, identify performance gaps, and pinpoint improvement opportunities.

4. Require follow-up actions to address organizational priorities. By requiring and tracking follow-up actions on performance gaps, organizations underscore the importance of holding individuals accountable for making progress on their priorities.

5. Use competencies to provide a fuller assessment of performance. Competencies define the skills and supporting behaviors that individuals need to effectively contribute to organizational results.

6. Link pay to individual and organizational performance. Pay, incentive, and reward systems that link employee knowledge, skills, and contributions to organizational results are based on valid, reliable, and transparent performance management systems with adequate safeguards.

[6]U.S. General Accounting Office, *Results-Oriented Cultures: Creating a Clear Linkage between Individual Performance and Organizational Success*, GAO-03-488 (Washington, D.C.: Mar. 14, 2003).

7. Make meaningful distinctions in performance. Effective performance management systems strive to provide candid and constructive feedback and the necessary objective information and documentation to reward top performers and deal with poor performers.

8. Involve employees and stakeholders to gain ownership of performance management systems. Early and direct involvement helps increase employees' and stakeholders' understanding and ownership of the system and belief in its fairness.

9. Maintain continuity during transitions. Because cultural transformations take time, performance management systems reinforce accountability for change management and other organizational goals.

Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

June 7, 2004

Mr. J. Christopher Mihm
Managing Director, Strategic Issues
United States Government Accounting Office

Dear Mr. Mihm:

On behalf of Secretary Ridge, I would like to thank you for the opportunity to review and comment on the report entitled **Human Capital: DHS Faces Challenges in Implementing Its New Personnel System (GAO-04-790).** Generally, we believe this report is accurate and reflective of our processes and current status; however we believe there is some information that needs to be updated or clarified. The most substantive comments are discussed below, and it is our understanding that the final report will incorporate our technical comments.

The draft report references the use of and/or the results of OPM's Federal Human Capital Survey (FHCS). While we support the FHCS and believe the results can be of tremendous value to agencies, we question the current usefulness to DHS. The FHCS was conducted prior to the establishment of DHS and the opinions expressed by the respondents to the survey were provided prior to the formation of DHS. Yet, this report appears to use the survey results from the legacy organizations as a baseline for DHS. We question how accurately the results portray the perceptions of DHS employees given the significant amount of change that has occurred. Thus, it is our opinion that the results of the FHCS, as used in the context of this report, may be misleading.

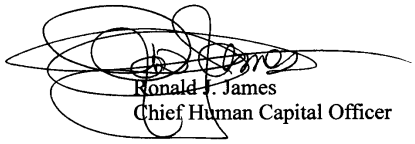
We also believe that timeframes contained in the draft report should be updated since we are now in a position to more accurately project major milestones. This includes the ability to better estimate when the interim final regulations might be published which has enabled us to set realistic internal goals for the implementation phase. As a result, some of the milestones outlined on page six, Figure 1, should be adjusted. Specifically, under the last box "Fall 2004 to January 2009," you may want to change the second bullet to reflect, "Implement the job evaluation, pay, and performance management provisions in a phased approach, with the first phase implemented beginning January/February 2005 and the second phase implemented beginning fall of 2005." You should also revise the second full paragraph on page eight to reflect that the focus groups are more likely to occur during the summer than late spring or early summer.

Finally, we also would like to correct the information provided on page eight in the first full paragraph. Specifically, we request that you change the third sentence to reflect that during the design process from April through September 2003, not only did the subgroups gather basic demographic data, but they also gathered policy documents from all the legacy organizations and met with representatives of many of the organizations in order to conduct in-depth discussions

regarding internal HR policies. For example, during the summer of 2003, the subgroups met with representatives of TSA, the Coast Guard, legacy Customs, and FEMA to learn more about their organizations and their current policies and practices.

We have enjoyed working with all the representatives of your organization and appreciate the insight and feedback we have received, both in person, and through these reports. Should you have any questions regarding these comments, please feel free to give me a call.

Sincerely,



Ronald J. James
Chief Human Capital Officer

Enclosure

GAO Contact and Staff Acknowledgments

GAO Contact

J. Christopher Mihm, (202) 512-6806

Acknowledgments

In addition to the person named above, Ed Stephenson, Ellen V. Rubin, Tina Smith, Lou V.B. Smith, Masha Pasthhov-Pastein, Karin Fangman, and Ron La Due Lake made key contributions to this report.

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June 2004

REBUILDING IRAQ Resource, Security, Governance, Essential Services, and Oversight Issues

United States General Accounting Office

GAO

Report to Congressional Committees

June 2004

REBUILDING IRAQ

Resource, Security, Governance, Essential Services, and Oversight Issues



GAO-04-902R

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United States General Accounting Office
Washington, DC 20548

June 28, 2004

The Honorable Richard G. Lugar
Chairman
The Honorable Joseph R. Biden
Ranking Minority Member
Committee on Foreign Relations
United States Senate

The Honorable Henry J. Hyde
Chairman
The Honorable Tom Lantos
Ranking Minority Member
Committee on International Relations
House of Representatives

Subject: *Rebuilding Iraq: Resource, Security, Governance, Essential Services, and Oversight Issues*

Rebuilding Iraq is a U.S. national security and foreign policy priority. According to the President, the United States intends to help Iraq achieve democracy and freedom and has a vital national interest in the success of free institutions in Iraq. As of April 30, 2004, billions of dollars in grants, loans, assets, and revenues from various sources have been made available or pledged to the reconstruction of Iraq. The United States, along with its coalition partners and various international organizations and donors, has embarked on a significant effort to rebuild Iraq following multiple wars and decades of neglect by the former regime. The Coalition Provisional Authority (CPA), established in May 2003, was the U.N.-recognized coalition authority led by the United States and the United Kingdom that was responsible for the temporary governance of Iraq. Specifically, the CPA was responsible for overseeing, directing, and coordinating the reconstruction effort.

On June 28, 2004, the CPA transferred power to a sovereign Iraqi interim government, and the CPA officially dissolved. To pave the way for this transfer, the CPA helped the Iraq Governing Council develop the *Law of Administration for the State of Iraq for the Transitional Period* in March 2004.[1] The transitional law provides a framework for governance of Iraq while a permanent government is formed. In June 2004, U.N. Security Council Resolution 1546 provided international support to advance this process, stating that, by June 30, CPA will cease to exist and Iraq will reassert full sovereignty. Resolution 1546 also endorsed the formation of a fully sovereign Iraqi interim government; endorsed a timetable for elections and the drafting of an Iraqi constitution;

[1]U.S. General Accounting Office, *Iraq's Transitional Law*, GAO-04-746R (Washington, D.C.: May 25, 2004).

and decided that the United Nations, at the Iraq government's request, would play a leading role in establishing a permanent government. Resolution 1546 further noted the presence of the multinational force in Iraq and authorized it to take all necessary measures to contribute to security and stability in Iraq, in accordance with letters annexed to the resolution. Such letters provide, in part, that the multinational force and the Iraqi government will work in partnership to reach agreement on security and policy issues, including policy on sensitive offensive operations. Resolution 1546 stated that the Security Council will review the mandate of the multinational force in 12 months or earlier if requested by the government of Iraq and that it will terminate the mandate if requested by the government of Iraq.

As part of our broad effort to monitor Iraq reconstruction, which we undertook at your request, this report provides information on the status of the issues we have been monitoring, as well as key questions that will assist you in your oversight responsibilities. Specifically, this report focuses on issues associated with (1) resources, (2) security, (3) governance, and (4) essential services. For the essential services issue, we focused on the Army Corps of Engineers' Restore Iraqi Electricity project, a major component of the U.S. assistance effort to rebuild the power sector. We updated the information in this report on June 17, 2004, with the most currently available data, as noted in each enclosure. We conducted our review from March 2004 through June 2004 in accordance with generally accepted government auditing standards.

Summary

Resources

As of the end of April 2004, about $58 billion in grants, loans, assets, and revenues from various sources had been made available or pledged to the relief and reconstruction of Iraq. Resource needs are expected to continue after the transfer of power to a sovereign Iraqi interim government. Of the funds available, the United States obligated about $8 billion of the available $24 billion in U.S. funds. The CPA obligated about $15.5 billion of the nearly $21 billion in available Iraqi funds. These funds were used to support ministry operations and expenses; the restoration of essential services, such as power, oil, and water; and humanitarian and other human services, including the importation of liquid petroleum gas and food. The international community pledged nearly $14 billion. In December 2003, the CPA put into effect an Iraqi-led process to coordinate reconstruction efforts. However, the capability to track the total amount of bilateral assistance flowing into Iraq and to identify sectors that do not receive assistance is still under development. An October 2003 U.N./World Bank assessment noted that Iraq's ability to absorb resources as the country gains sovereignty and decision-making authority will be one of the most significant challenges to reconstruction. The CPA faced a number of challenges in identifying, obtaining, and organizing the human resources required to help stabilize and reconstruct Iraq. The CPA's staffing requirements also changed over time as the mission evolved from a reconstruction and humanitarian effort to the temporary administration of the Iraq government. The CPA was dependent on personnel from multiple sources and generally operated with about one-third fewer staff than it required. After the transition, the U.S. Mission in Baghdad and its temporarily established Iraq

Reconstruction Management Office are likely to continue to draw upon staff from multiple sources.

Security: Trends and Issues

The security situation in Iraq has deteriorated since June 2003, with significant increases in attacks against the coalition and coalition partners. Anti-coalition attacks have generally become more sophisticated, widespread, and effective. In May 2004, the Secretary of Defense and the Commander of the U.S. Central Command projected that the level of violence could continue to increase as Iraq moves to elect a transitional government. The increase in attacks has had a negative impact on military operations and the work of international civilian organizations in Iraq. The United States decided to maintain a force level of about 138,000 troops at least until the end of 2005, rather than drawing down to 105,000 troops by May 2004, as DOD had announced in late 2003. The United Nations, numerous nongovernmental organizations, and a range of civilian contractors have reduced their presence or completely shut down operations. As part of the effort to provide stability, the coalition plans to transfer security responsibilities from the multinational force to Iraqi security forces and to dissolve Iraqi militias operating outside the central government's control. As of June 2004, Iraq had security forces numbering about 220,000, including the Iraqi Police, Iraqi Civil Defense Corps, and Iraqi Armed Forces. During the escalation of violence that occurred during April 2004, these security forces collapsed in several locations. As of June 2004, efforts to disband Iraq's militias have produced formal agreements between the CPA and nine major political parties that possess militias. However, key elements of the CPA's transition and reintegration process remain to be finalized.

Governance: Reforming and Rebuilding Iraq's Government

With U.S. and others' assistance, Iraqis have taken control of government institutions at the national and subnational levels. National ministries are providing some services to citizens as their facilities are being rebuilt, reforms are being introduced, and their staffs trained. According to the head of the now-dissolved CPA, all ministries were under Iraqi authority as of the transfer of power on June 28, 2004. However, the security situation hinders the ability of the ministries to provide needed services and maintain daily operations. To reform the rule of law, ongoing efforts have begun to establish a functioning independent judiciary, although courts are not at their pre-war capacity. As of June 2004, the CPA had completed a review of all Iraqi judges, took steps to reform Iraq's legal code, and issued orders to restore judicial independence. However, efforts to rebuild Iraq's judicial system and restore the rule of law face multiple challenges, including providing adequate security for judges and other court personnel, some of whom have been assassinated; ensuring the independence of the court system so that it operates without influence from the executive branch of the government; and providing adequate training for judges and attorneys. U.S. officials said that rehabilitating and reforming Iraq's judicial system will likely take years.

Essential Services: Restore Iraqi Electricity

The Coalition considers reconstruction of the power sector critical to reviving Iraq's economy, supporting essential infrastructure, improving daily well-being, and gaining local support for the coalition presence in Iraq. The CPA set a goal of 6,000 megawatts of generating capacity by June 30, 2004, in anticipation of the higher demand for power during the summer months. As part of the overall effort to achieve this goal, the U.S. Army Corps of Engineers (Corps) has undertaken $1.4 billion in work under the Restore Iraqi Electricity (RIE) program. As of late May, the Corps anticipated that 59 of the 66 RIE projects expected to help meet the goal would be completed by June 30. However, even if the 6,000-megawatt goal is met, generating capacity will fall short of the estimated summer peak demand of 7,000 to 8,000 megawatts. Some improvements have been made in restoring electricity; for example, Iraq's daily peak generation capacity increased from about 3,400 megawatts on September 25, 2003, to about 4,200 megawatts on June 1, 2004. However, electrical service in the country as a whole has not shown a marked improvement over the immediate postwar levels of May 2003 and has worsened in some governorates. For example, in May 2003, 7 of Iraq's 18 governorates had 16 or more hours of electricity a day, but as of late May 2004, only one governorate in northern Iraq was at that level. RIE contractors report numerous instances of project delays due to difficulties in getting employees and materials safely to project sites. Further, the security environment continues to affect the cost of rebuilding the power sector. Preliminary estimates of security-related costs for one RIE contractor are almost 18 percent of total costs. The possibility that electrical capacity will not meet the peak summer demand raises concerns about the ability of the coalition to support power-dependent infrastructure, improve Iraq's economy, and promote stability in Iraq.

Concluding Observations

The United States, along with its coalition partners and various international organizations and donors, has undertaken a challenging and costly effort to stabilize and rebuild Iraq. Several key challenges will affect the political transition, the pace and cost of reconstruction, and the type of assistance provided by the international community. These include the unstable security environment, the evolving capacity of the Iraqi institutions to govern and secure the country, the availability and coordination of international assistance, and the need for adequate oversight. Given the instability and uncertainty in Iraq, there are also questions about what options and contingency plans are being developed to address these ongoing and future challenges. The following enclosures elaborate on the progress made as of June 2004 in key aspects of the stabilization and rebuilding effort. We also provide key questions for Congress to consider as it assesses progress and provides oversight of reconstruction efforts.

Agency Comments and Our Evaluation

We provided drafts of this report to the Coalition Provisional Authority; the Departments of Defense, State, Justice, and Treasury; and the U.S. Agency for International Development. These agencies were unable to provide us written comments in the limited time given. However, we worked with the agencies to obtain oral comments on

individual enclosures. Agencies provided technical comments on many of the enclosures, which we incorporated where appropriate.

CPA commented that the general tone of the report was accurate, but stated that the report was not sufficiently critical of the judicial reconstruction effort (enclosure IX). In particular, CPA said the capacity of the courts is less than pre-war levels. We modified the report to increase the emphasis on the challenges that Iraq faces in reforming its judicial system and added additional information CPA provided. CPA also commented on enclosure VI (Iraqi security forces), stating that delays in providing equipment to Iraqi security forces were caused by a range of factors, and not just contracting problems. In commenting on our description of the Iraqi police force's response to insurgent activity in April, CPA noted that the Iraqi police were not intended to combat insurgents, but did stand up to them in some locations. We modified enclosure VI by including the range of factors that delayed equipping Iraqi security forces and incorporated CPA's comments as appropriate.

Individual units of the Department of Defense, including the Army Corps of Engineers, provided technical comments on resource issues (enclosures I, II, IV); security (enclosures V, VI, and VII); and essential services (enclosure X), which we incorporated as appropriate. State provided technical comments on international funding (enclosure II), which we incorporated as appropriate. Justice provided technical comments on judicial reform (enclosure IX), which we incorporated as appropriate. Treasury had no comment on the report. USAID provided technical comments on governance issues (enclosure VIII), which we incorporated as appropriate.

Scope and Methodology

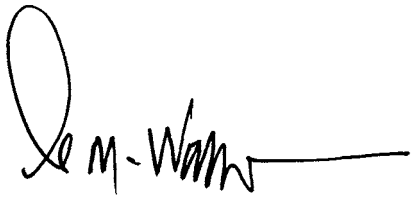
As part of our overall monitoring effort, we focused on issues involving resources, security, governance, and essential services. For each area, we obtained documents and interviewed relevant officials from the various agencies involved in rebuilding Iraq, including the Coalition Provisional Authority, the Departments of Defense, Justice, State, and the Treasury, the U.S. Agency for International Development, the Army Corps of Engineers, the multinational force, and nongovernmental organizations. We reviewed key documentation, orders, memoranda, reports, budget documents, and plans. In reviewing agency data on the issues included in this report, we determined that the data are sufficiently reliable for the purposes used. We did not audit the funding data and are not expressing our opinion on them. However, we took several steps to ensure that the funding data were sufficiently reliable for the purposes of this report as discussed in enclosure XI. Complete details on our scope and methodology are presented in enclosure XI.

- - - - -

We are sending copies of this letter to interested congressional committees. This letter is also available on GAO's Web site at http://www.gao.gov. If you or your staff have questions, please contact Joseph Christoff at (202) 512-8979 or christoffj@gao.gov. For

press inquiries, please contact Jeff Nelligan at (202) 512-4800 or nelliganj@gao.gov. Key contributors to this report are included in enclosure XII.

Sincerely,



David M. Walker
Comptroller General of the United States

Enclosures (12)

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I. Resources

Funding the Reconstruction

Issue

The United States, along with its coalition partners and various international organizations and donors, have committed billions of dollars to the reconstruction of Iraq in the face of an unstable security situation and other challenges. These funds have come from multiple and diverse sources, the effective use of which requires significant oversight and cooperation. The Coalition Provisional Authority (CPA) has been responsible for the allocation of U.S. and Iraqi funds. The Departments of Defense and State, and the U.S. Agency for International Development, among others, have played play a primary role in U.S. efforts to fund and execute the reconstruction effort. To a large extent, these agencies have used contracts and personal services contractors to implement their programs. Agency inspectors general, the CPA inspector general, and other auditing authorities are responsible for auditing aspects of the reconstruction effort. This enclosure describes (1) the sources and amounts of funds that have been made available for the reconstruction of Iraq, and (2) the amounts of U.S. and Iraqi funds that have been obligated and disbursed as of April 30, 2004,[1] and the uses to which those funds have been applied. Funds for U.S. military operations are not described in this enclosure.

Results in Brief

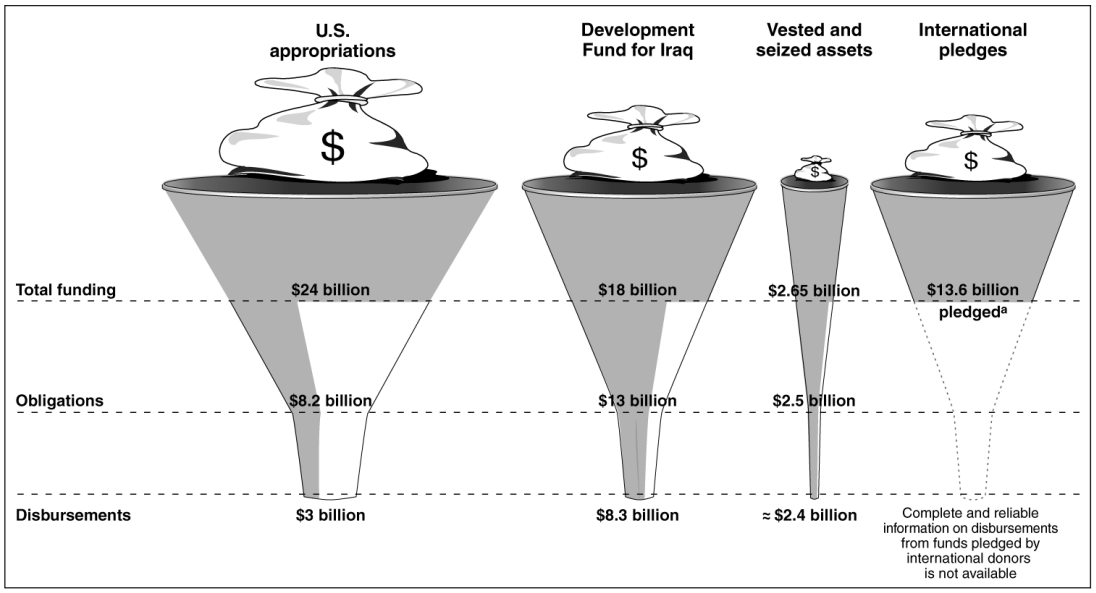
As of April 30, 2004, about $58 billion in grants, loans, assets, and revenues from various sources had been made available or pledged to the reconstruction of Iraq (see fig. I.1). The United States appropriated about $24 billion and the international community has pledged about $13.6 billion in grants and loans. The remaining funds made available for reconstruction purposes include about $18 billion from the Development Fund for Iraq[2] (DFI) and a total of about $2.65 billion in vested assets and seized assets

[1] Data for U.S. appropriated funds are as of April 30, 2004, with the exception of some CPA Program Management Office obligations and disbursements, which are as of May 25 and June 16, respectively. Iraqi funds data are as of May 6, 2004.

[2] CPA established the Development Fund for Iraq to accommodate Iraqi funds that would be used to benefit the Iraqi people and facilitate the reconstruction of their country.

from the deposed regime.[3] Of the funding available for the reconstruction effort, about $24 billion had been obligated as of the end of April 2004.[4] Of this amount, about $13 billion came from the Development Fund for Iraq and about $8 billion from U.S. appropriated funds. About $4 billion of the $4.5 billion in U.S. funds appropriated in 2003 and about $4.2 billion of the $19.6 billion in U.S. funds appropriated in 2004 have been obligated. The remaining $2.5 billion in obligated funds came from vested and seized assets. Obligations to date have primarily been applied to the operating expenses of the Iraqi ministries; restoration of essential services such as oil, water, and power; and humanitarian and human services, including the procurement of food and liquid petroleum gas for domestic consumption.

Figure I.1: Total Funds Available, Obligated, and Disbursed for Iraq Reconstruction by Source, as of April 2004



Sources: GAO (analysis); Nova Development (clip art).

[a]Of the $13.6 billion pledged, donors have committed about $1 billion to the International Reconstruction Fund Facility for Iraq.

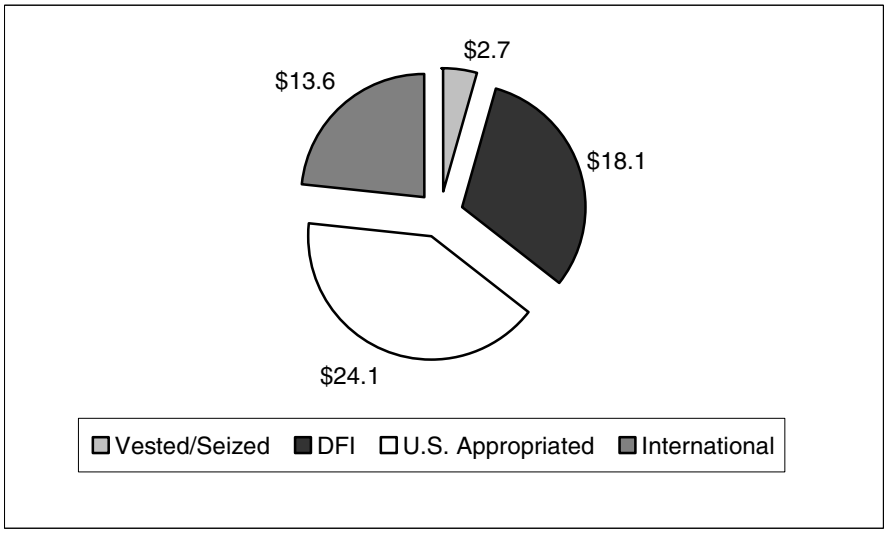
[3]"Vested assets" refers to former Iraqi regime assets held in U.S. financial institutions that the President confiscated in March 2003 and vested in the U.S. Treasury. The United States froze these assets shortly before the first Gulf War. The U.S.A. PATRIOT Act of 2001 amended the International Emergency Economic Powers Act to empower the President to confiscate, or take ownership of, certain property of designated entities, including these assets, and vest ownership in an agency or individual. The President has the authority to use the assets in the interests of the United States. In this case, the President vested the assets in March 2003 and made these funds available for the reconstruction of Iraq in May 2003. Seized assets refer to former regime assets seized within Iraq.

[4]An obligation is a binding agreement that will result in immediate or future outlays of funds.

Funding Pledged or Made Available for Iraq

The reconstruction of Iraq has been supported from multiple sources of funds. The largest share of these funds has come from U.S. appropriations. The other sources, in descending order of amounts, are the DFI, vested assets, and seized assets (see fig. I.2). In addition, international donors have pledged about $14 billion to the reconstruction effort.

Figure I.2: Sources of Funding for Iraq Reconstruction as of April 30, 2004



Sources: GAO (analysis); Departments of Defense, State, and the Treasury, USAID, CPA, and the World Bank Group (data).

U.S. Appropriations

Congress has appropriated about $24 billion of the approximately $58 billion provided to date for the relief and reconstruction of Iraq. The funds appropriated in fiscal year 2003 were made available until September 30, 2004; those appropriated in fiscal year 2004 were made available until September 30, 2006.

In April 2003, Congress enacted the Emergency Wartime Supplemental Appropriations Act, which, when combined with previously appropriated funds, provided about $4.5 billion for the reconstruction of Iraq. Of this $4.5 billion, the act provided $2.475 billion for an Iraq Relief and Reconstruction Fund (IRRF). The act also included a provision for the Iraq Freedom Fund (IFF) to support ongoing military operations in Iraq, among other things, and for a Natural Resources Risk Remediation Fund to finance emergency firefighting, repair damaged oil facilities, and preserve oil distribution capability. In addition, some funds were transferred from the IFF to support the new Iraqi Army (about $50 million) and for CPA operating expenses (about $600 million). The Natural Resources fund provided about $800 million to the reconstruction effort. In addition, agencies have also

been reimbursed about $575 million for expenses incurred before the passage of the supplemental appropriations act.

In November 2003, Congress enacted another emergency wartime supplemental appropriation, of which $18.4 billion was provided for Iraq relief and reconstruction. In addition, under the same act, the CPA received its own funding authority of $983 million for operating expenses. Further, $140 million was transferred from the IFF to support regional emergency response programs.

Development Fund for Iraq

As of May 6, 2004, the DFI had received deposits of about $18 billion. This fund, established by the CPA in May 2003 and noted by U.N. Security Council Resolution 1483, was created to benefit the Iraqi people and facilitate the reconstruction of their country. The U.N. resolution provided for an initial deposit of $1 billion from unencumbered Oil for Food program funds.[5] The resolution further authorized the subsequent deposits of (1) proceeds from the sale of Iraqi oil, natural gas, and petroleum products; (2) U.N. funds such as unused Oil for Food program funds; and (3) transferred assets from the former Iraqi regime that U.N. member states had frozen in the 1990. The DFI does not include U.S. appropriated funds. See enclosure III for more detailed information on the DFI.

Vested Assets and Assets Seized in Iraq

Approximately $2.7 billion in assets the United States confiscated and seized from the former regime have been made available for use in Iraq's reconstruction. In March 2003, the U.S. government confiscated more than $1.7 billion in Iraqi assets located in U.S. financial institutions and vested them in the U.S. Treasury. These funds were Iraqi government funds originally frozen in 1990 consistent with a U.N. Security Council Resolution and held in U.S financial institutions from 1990 to 2003. From May to September 2003, the United States transferred these funds to Iraq. As of May 2004, coalition forces seized more than $900 million of regime assets in Iraq.

[5] The Oil for Food program was established by the United Nations and Iraq in 1996 to address concerns about the humanitarian situation in Iraq after the imposition of international sanctions in 1990. The program allowed the Iraqi government to use the proceeds of its oil sales to pay for food, medicine, and humanitarian goods for the benefit of the Iraqi people. U.N. Security Council Resolution 1483 provides for the deposit of oil revenues and some Oil for Food program funds in the DFI until an internationally recognized, representative government of Iraq has been constituted. See U.S. General Accounting Office, *United Nations: Observations on the Management and Oversight of the Oil for Food Program*, GAO-04-730T (Washington D.C.: Apr. 28, 2004).

International Donors

The international donors described in this enclosure include individual nations, the European Commission, and international financial institutions. International donors, exclusive of the United States, have pledged or committed nearly $14 billion to the reconstruction of Iraq through 2007.[6] These contributions will be made either bilaterally or through a newly established multilateral mechanism known as the International Reconstruction Fund Facility for Iraq. For detailed information on international donors, see enclosure II.

U.S. and Iraqi Funds Obligated and Disbursed

Overall, about $24 billion in U.S. and Iraqi funds has been obligated for the reconstruction effort in Iraq as of April 30, 2004. About $13 billion in obligations has come from the DFI, and about $8 billion from U.S. appropriated funds.[7] The remaining $2.5 billion in obligations has come from vested assets and seized assets. Reliable information on the international donors' obligations and expenditures is not available. Table 1.1 provides a detailed breakdown of obligations by sources of funding for the broad range of activities associated with the reconstruction of Iraq, not solely for infrastructure.

[6]The World Bank Group defines a pledge as an indication of intent to mobilize funds for which an approximate sum of contribution is specified. International donor pledges range from $13.6 billion to $17.3 billion, reflecting the range of loans pledged by the World Bank and International Monetary Fund (IMF). Given the uncertainty of the ultimate amount of loans provided by the World Bank and IMF, we have used the lower pledge amount in this report.

[7]The CPA used the term allocation to reflect DFI obligations. In this enclosure, we have considered these allocations as obligations for consistency of reporting.

Table I.1: U.S., DFI, Vested and Seized Funds Obligated by Activity, as of April 2004

Millions of U.S. dollars

Activity	U.S. appropriated	DFI	Vested	Seized	Total
Ministry operations/operating expenses	$1,191	$7,541	$1,507	$284	$10,523
Essential services	3,906	1,439	37	64	5,447
Humanitarian and human services	1,370	2,202	13	93	3,678
Security	1,164	895	76	12	2,147
Regional programs	21	618	1	341	981
Governance	447	34	7	1	490
Economic reconstruction	88	224	41	10	362
Public buildings and other reconstruction	18	27	7	3	55
Total	**$8,206**	**$12,981**	**$1,688**	**$809**	**$23,683**

Sources: Departments of State, Defense, and the Treasury, USAID, and CPA.

Note: Numbers may not add due to rounding.

About $20 billion of the approximately $24 billion in obligations has been applied primarily to three categories: ministry operations and expenses, the restoration of essential services, and humanitarian relief and other human services. Ministry operations include the salaries and costs of running the Iraqi ministries; the operating expenses include U.S. funding for the CPA administration and other U.S. agency operating costs. Obligations made for the restoration of essential services include the rehabilitation of the country's power, water, and oil infrastructure. For the humanitarian and human services category, obligations have been made to support, among other things, the importation of liquid petroleum gas for domestic cooking and heating. Table I.2 provides a description of significant activities and obligations within each category.

Table I.2: Projects and Significant U.S. Appropriated, DFI, Vested, Seized Obligations by Activity, as of April 2004

Activity	Projects	Significant Obligations
Ministry operations/ operating expenses	CPA and other U.S. agency operating costs, and budget support, ministry salaries, pensions, and other operations	From about $400 million in October 2003 to about $1.25 billion per month in May 2004 for budget operations; About $1.2 billion in CPA and other U.S. administrative expenses
Essential services	Oil, power, water and sanitation, transportation, telecommunications	About $1.7 billion for repair of power infrastructure; About $1.5 for repair of and security for oil infrastructure
Humanitarian and human services	Food, liquid petroleum gas, public safety, health care, education, human rights, refugees	Almost $2.5 billion for the importation of liquid petroleum gases for domestic heating, cooking, and transport purposes; About $580 million for food procurement
Security	Police, military, and other security forces, including training, equipment, facilities, judicial security	About $370 million for police training and technical assistance; About $800 million for the Iraqi Armed Forces
Regional programs	The Commander's Emergency Response Program provides funding for small, high-impact, emergency, local projects. The Rapid Regional Response Program provides funding for local and regional projects	About $550 million provided to the multinational force for the Commander's Emergency Response Program; About $430 million provided to local and regional governorates for the Rapid Regional Response Program
Governance	Democracy building, rule of law, local governance activities	About $375 million for democracy building, including transitional, electoral, and rule of law support; About $110 million for the construction of detention, penal, and judicial facilities
Economic reconstruction	Currency exchange, banking system modernization, private sector development	About $200 million for the currency exchange for new Iraqi dinars; About $75 million for micro lending and jobs programs
Public buildings and other reconstruction	Ministry and other government building construction and renovation, miscellaneous projects and services	About $42 million for building construction and repair; About $12 million for legal and settlement fees

Sources: GAO (analysis); CPA and U.S. agencies (information).

Once funds are obligated, disbursements occur when funds are paid and the obligations are liquidated. Almost all available funds from the vested and seized assets have been disbursed. Greater amounts of funding remain available from U.S. appropriations and the Development Fund for Iraq. Overall, as of April 30, 2004, about $8.2 billion, or about one third, of the $24 billion in U.S. funds appropriated for rebuilding Iraq have been obligated. About $3 billion of those obligations have been disbursed. Although the amount of DFI funding available for rebuilding Iraq changes as deposits are made from the sale of Iraqi petroleum products, about $8.3 billion of the $13 billion obligated had been disbursed as of May 6, 2004.

Conclusion

The United States, its coalition partners, and international organizations and donors have provided or pledged substantial amounts of funds to help rebuild Iraq. Ensuring the accountability and oversight of these resources is a fundamental responsibility of both the U.S. agencies involved in the reconstruction and relevant audit authorities. Critical to the agencies' ability to allocate and account for these resources is the availability of complete and accurate financial data. Further, close coordination among those providing assistance is important to help ensure effective use of available funds and avoid duplication of effort. Together, sound financial data and close coordination provide a basis for effective use of resources and oversight.

Oversight Questions

1. What accounting and monitoring controls are in place to ensure effective oversight of the U.S., Iraqi, and international funds used to rebuild Iraq?

2. To what extent are existing accounting and management information systems adequate to provide complete and reliable reporting on the implementation of the reconstruction effort?

3. What are the roles and responsibilities of the CPA Inspector General with the transfer of power to the Iraqis? What is the relationship between the CPA Inspector General, the State Department Inspector General, and U.S. ambassador to Iraq?

4. To what extent has the unstable security environment affected the U.S. government's ability to provide adequate oversight of the reconstruction effort, including the auditing of contracts and funding expended?

5. What effect does the transfer of authority to the Iraqis have on the U.S. agencies' ability to monitor and audit the reconstruction investment made with these funds?

II. Resources

International Assistance to Rebuild Iraq

Issue

The size and scope of Iraq's reconstruction needs through 2007 have been estimated to total about $56 billion.[1] Many nations and various international organizations are supporting the effort to rebuild Iraq through multilateral or bilateral assistance. U.N. Security Council Resolution 1511 of October 16, 2003, urged member states and international and regional organizations to support the Iraq reconstruction effort. On October 23-24, 2003, an international donors conference was held in Madrid, with 76 countries, 20 international organizations, and 13 nongovernmental organizations participating. This enclosure provides information on (1) the amount of funds pledged[2] by the international community for Iraq's reconstruction, (2) the extent to which funds have been provided to the International Reconstruction Fund Facility, and (3) mechanisms for coordinating reconstruction assistance in Iraq.

Results in Brief

As a result of the October 2003 donors conference, international donors pledged nearly $14 billion, some in grants but largely in the form of loans for the country's reconstruction over the next 4 years. This is in addition to the $18.4 billion that Congress provided for Iraq relief and reconstruction in November 2003. The International Reconstruction Fund Facility for Iraq was established as a mechanism to channel international funding to Iraq. As of April 22, 2004, international donors had committed about $1 billion in multilateral aid, of the pledged $14 billion, to the IRFFI to fund

[1]The United Nations Development Group and the World Bank Group prepared a needs assessment from June 2003 through August 2003 to define Iraq reconstruction requirements. According to the October 2003 assessment, Iraq needs an estimated $36 billion from 2004 through 2007. Sectors covered by this assessment include education, health, electricity, transportation, agriculture, and cross-cutting areas such as human rights and the environment. The assessment also notes that the Coalition Provisional Authority (CPA) estimates that an additional $20 billion will be needed from 2004 through 2007 to rebuild other critical sectors (e.g., security and oil) outside the scope of the U.N./World Bank assessment.

[2]The World Bank Group defines a pledge as an indication of intent to mobilize funds for which an approximate sum of contribution is specified.

reconstruction projects in 2004. An Iraqi-led process, endorsed by the Iraqi Governing Council and put into effect by the Administrator of the Coalition Provisional Authority, is responsible for coordinating all international assistance for rebuilding and reforming institutions in Iraq. However, this process has not had the capability to track the total amounts of bilateral assistance flowing into Iraq. The ability to track all international contributions made to support Iraq's reconstruction, including bilateral assistance, is an important element for identifying the sectors receiving assistance, identifying any gaps in assistance, and ensuring that assistance is coordinated.

International Donors Pledged about $14 Billion for Iraq Reconstruction

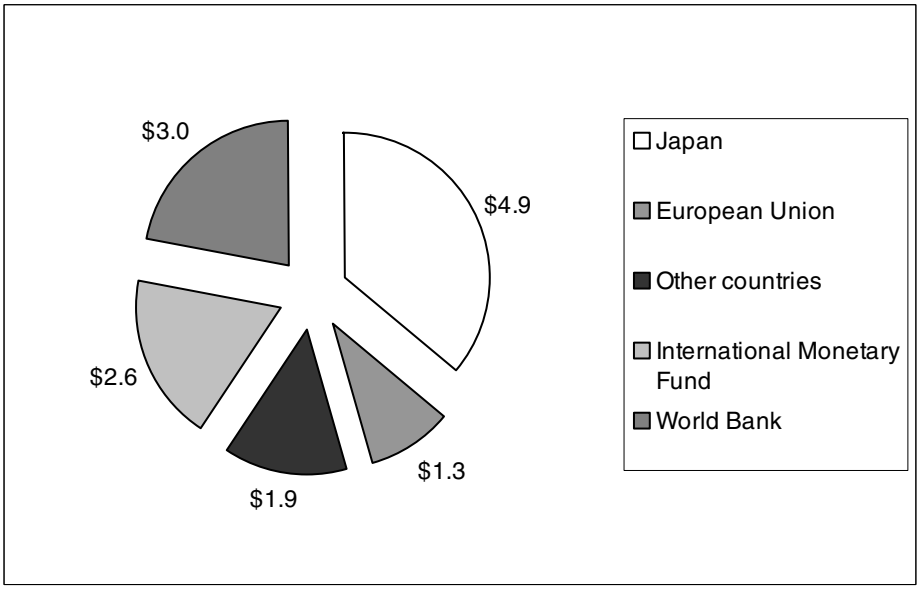
International donors have pledged nearly $14 billion in grants and loans for Iraq's reconstruction until the end of 2007. This is in addition to the $18.4 billion that the U.S. Congress provided for security, relief, rehabilitation, and reconstruction needs in Iraq in November 2003.[3] Other countries also offered technical and other types of support in lieu of financial assistance.[4] Figure II.1 shows the major international non-U.S. pledges for Iraq reconstruction made at the Madrid conference.

[3]See PL 108-106, "Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004." In this act, Congress appropriated $18.6 billion for Iraq's security, relief, rehabilitation, and reconstruction needs, but directed that of these funds, $100 million be transferred for assistance to Jordan, $100 million be transferred for assistance to Liberia, and $10 million be transferred for assistance to Sudan.

[4]The following countries offered in-kind assistance: Bahrain, Chile, Egypt, Germany, Jordan, Latvia, Mexico, Poland, Philippines, Portugal, Slovakia, Sri Lanka, Switzerland, Thailand, Tunisia, and Vietnam.

Figure II.1: International Non-U.S. Pledges for Iraq Reconstruction Made at the 2003 Madrid Donors Conference, by Source

Millions of U.S. dollars



Sources: GAO (analysis); World Bank (data).

Numbers may not add due to rounding.

Note: The European Union amount includes the collective pledge of the European Commission as well as individual pledges from current and acceding member countries of the European Union as of the October 2003 Madrid conference.

Countries pledging $500 million or more included Japan at $4.9 billion, the European Union at $1.3 billion, Saudi Arabia at $500 million, and Kuwait at $500 million. The World Bank pledged assistance ranging from $3 billion to $5 billion and the International Monetary Fund pledged $2.6 billion to $4.3 billion.[5] According to State Department documentation, the International Monetary Fund plans to make $450 million of its pledge available in emergency aid to Iraq as part of a postconflict program during the second half of 2004, if the interim government that assumes power after June 30, 2004, meets certain economic policy conditions. Table II.1 summarizes the amount of pledges made at the Madrid conference by non-U.S. donors for Iraq reconstruction.

[5]In figure II.1, we have used the lower pledge amount, given the uncertainty of the ultimate amount of loans to be provided by the World Bank and IMF.

Table II.1: International Non-U.S. Pledges for Iraq Reconstruction Made at the 2003 Madrid Donors Conference by Type

Millions of U.S. dollars[a]

Contributions		2004	2005-2007	Unspecified by year[c]	Total
Grants	IRFFI	$322.12	$0.00	$83.17	$405.29
	Bilateral grants	110.22	78.19	853.71	1,042.13
	Unspecified grants[b]	252.87	225.42	1,697.00	2,175.29
	Total grants	**685.21**	**303.61**	**2,633.88**	**3,622.71**
Loans		**1,470**	**4,655-8,355**	**3,500**	**9,625–13,325**
Unspecified as grant or loan[d]		**0**	**0**	**335.62**	**335.62**
Total		**$2,155.21**	**$4,958.61-8,658.61**	**$6,469.50**	**$13,583.33-17,283.33**

Sources: Department of State and World Bank Group.

[a]Amounts do not include identified humanitarian assistance or export credits and guarantees.

[b]At the time of the donors' conference, most donors did not specify whether they would provide their assistance bilaterally or through the IRFFI.

[c]Many donors did not provide a breakdown of their assistance by year.

[d]Italy and Qatar did not specify whether their pledges were grants or loans.

International donors, excluding the United States, pledged at the Madrid Conference to provide about $405 million in grants multilaterally through the IRFFI and about $1.04 billion in grants bilaterally. Another $2.2 billon in grants was pledged at the donors conference, but donors did not specify how the grant assistance would be provided or allocated by year. While data are available for the actual contributions that have been made through the IRFFI, detailed information on the actual amounts of the IRFFI and bilateral assistance going into Iraq for reconstruction activities is not readily available. According to officials from the State Department and the Coalition Provisional Authority, the United States is working with the Iraqis to identify this information and to develop a database for tracking all bilateral commitments made to reconstruction activities in Iraq. As of June 2, 2004, according to a State Department official, this work was still ongoing and the database was not yet available.

Donor Commitments to the International Reconstruction Fund Facility for Iraq

As of May 26, 2004, the European Commission and 18 donor countries had committed[6] a total of about $1 billion to the International Reconstruction Fund Facility for Iraq (IRFFI) for 2004. This commitment tripled the $322 million in grants pledged to the IRFFI for 2004 at the Madrid Conference. The IRFFI was established in response to the June 24, 2003, U.N. technical meeting and the 2003 Madrid conference's calls for a mechanism to channel donor resources and coordinate support for Iraqi reconstruction and development activities. The IRFFI comprises two trust funds into which donors can make contributions—the World Bank Iraq Trust Fund and the U.N. Development Group Iraq Trust Fund.[7] The World Bank and the U.N. Development Program administer the IRFFI in coordination with international donors and Iraqi authorities. The Donor Committee,[8] with members from 14 countries and the European Commission, is to oversee the activities of the IRFFI and endorse its priorities. At a February 2004 international donors meeting held in Abu Dhabi, participants focused on IRFFI's operation and funding. Specifically, information was shared with donors on Iraq's reconstruction plans and project priorities, U.S. assistance spending plans, and the IRFFI's preferred spending and project plans. Table II.2 presents a summary of the donors' commitments and deposits made to the IRFFI as of May 26, 2004.

[6]According to State Department officials, commitments refer to a firmer declaration of the amount that a country has pledged to provide.

[7]The Donors Committee determined on May 26, 2004, that the IRFFI will focus its activities on the re-establishment of essential services, infrastructure rehabilitation, job creation, poverty reduction, governance, and capacity building, including support for the transitional authorities. The World Bank Iraq Trust Fund will focus its funding on projects for economic transition, governance and public sector reform, and poverty and safety net issues. The U.N. Development Group Iraq Trust Fund will focus its funding on projects such as basic services, infrastructure, capacity building, employment generation, and community-level rehabilitation.

[8]As of May 26, 2004, the Donor Committee membership is composed of Australia, Canada, the European Commission, Finland, India, Italy, Japan (chair), Korea, Kuwait, Norway, Qatar, Spain, Sweden, United Kingdom, and the United States. Membership comprises donors whose paid-in contributions or commitments to either or both trust funds amount to a minimum of US$10 million per donor, plus two additional seats for contributing donors that do not meet the minimum.

Table II.2: Donor Commitments to the International Reconstruction Fund Facility, as of May 26, 2004

Millions of U.S. dollars

Country	Committed contribution to IRFFI for 2004	Deposits made to the IRFFI
Australia	$15.2	$14.6
Canada	67.2	44.7
European Commission[a]	209.6	9.3
Finland	6.2	0.0
Greece	3.6	0.0
Iceland	1.0	1.0
India	10.0	5.0
Ireland	1.2	0.0
Italy	12.2	0.0
Japan	490.0	351.8[b]
Korea	10.0	0.0
Kuwait	10.0	0.0
Netherlands	6.0	0.0
Norway	4.3	0.0
Qatar	10.0	2.5
Spain	20.0	0.0
Sweden	10.0	0.0
United Kingdom	127.4	127.4
United States	10.0	10.0
Total	**$1,023.9**	**$566.3**

Source: State Department.

[a]The European Commission manages the European Union's budget and represents the Union internationally. The data for the Commission include commitments from both the Commission itself and the Commission's Rapid Reaction Mechanism, a vehicle for the quick mobilization of resources to provide the necessary political, social, and economic stability in crisis situations.

[b]The Japanese government disbursed an additional $98.2 million of its allocation which, as of May 26, 2004, has not been shown under 2004 deposits.

Iraqi Coordination of International Reconstruction Assistance in Iraq

In December 2003, the Iraqi Governing Council endorsed and the Coalition Provisional Authority administrator established an Iraqi-led process to coordinate international reconstruction assistance, including U.S. assistance. The Iraqi Strategic Review Board, the Ministry of Planning and Development Cooperation, and the Council for International Coordination are to coordinate all donor activities in the country.[9] In addition, these three bodies are to work with and coordinate IRFFI-provided reconstruction assistance.

[9]CPA Regulation number 5 established the Council for International Coordination in June 2003. Regulation number 7 established the Iraqi Strategic Review Board and renamed the Ministry of Planning the Ministry of Planning and Development Cooperation on December 5, 2003.

- The Iraqi Strategic Review Board is responsible for approving reconstruction activities and for ensuring that international assistance for Iraq is properly allocated against Iraq's prioritized needs, effectively monitored, and integrated into the Iraqi national budget. The Review Board is chaired by the Minister of Planning and Development Cooperation and includes the Finance Minister, a CPA representative, and two appointees of the Iraqi Governing Council.[10]

- The Ministry of Planning and Development Cooperation is responsible for managing the coordination of reconstruction activities by (1) providing guidance for development activities to the Iraqi ministers, (2) recommending reconstruction activities for approval to the Iraqi Strategic Review Board, and (3) monitoring the implementation of international reconstruction assistance to Iraq. The Ministry of Planning and Development Cooperation is to work closely with the Ministry of Finance and the Central Bank of Iraq to ensure that the recommendations it presents to the Iraqi Strategic Review Board conform to the Iraqi budgetary framework. The Ministry of Planning and Development Cooperation is also to work with the CPA's Program Management Office[11] to ensure that pre-existing bilateral commitments and the U.S. government's apportionment and obligation of funds appropriated for Iraq relief and reconstruction are taken into account in recommendations made to the Iraqi Strategic Review Board. A June 25, 2004, CPA Inspector General report noted that a process has not been developed to track or coordinate internationally funded projects with other CPA reconstruction efforts. Therefore, it made two recommendations to the CPA's senior advisors to improve the transparency and coordination of reconstruction efforts in Iraq funded by international donors.

- The Council for International Coordination is responsible for supporting and facilitating the participation of the international community in Iraq's recovery and reconstruction. The Council is chaired by the Minister of Planning and Development Cooperation and is composed of members from more than 23 countries involved

[10]On June 1, 2004, the Iraqi Governing Council dissolved and the Iraqi Interim Government was announced.

[11]The Program Management Office manages the awards and provides project management support for the contracts funded from the $18.4 billion provided by Congress for Iraq reconstruction. A May 11, 2004, National Security Presidential Directive established a temporary organization—the Project and Contracting Office—within the Department of Defense to provide acquisition and project management support after the transition of authority to the Iraqis.

in the reconstruction of Iraq. Although the Council is not a decision-making body, it serves as the main point of contact between donors and the CPA.

According to State Department documentation, these three bodies worked together after the Madrid donors' conference to set priorities and plan for Iraq's reconstruction. Iraq's Minister of Planning and Development Cooperation presented Iraq's project proposals, which had been approved by the Iraqi Strategic Review Board for international donor consideration, at the donors' meeting in Abu Dhabi. These proposals totaled about $4 billion and included about 700 projects. Table II.3 presents the estimated total costs of the project proposals by priority category as recommended by the Iraqi Strategic Review Board for donors' consideration.

Table II.3: Iraqi Estimated Costs of Project Proposals for 2004, by Priority Category

Millions of U.S. dollars

Priority category	Total cost by sector	Total cost by category
Education, health, labor, and social affairs		$737.9
Education	607.0	
Health	99.0	
Labor and social affairs	31.9	
Infrastructure		1,957.7
Water and sanitation	347.5	
Transport	323.3	
Telecommunication	136.0	
Electricity	1,057.9	
Housing and land management	93.0	
Urban management	0.0	
Agriculture, water resources, and food security		602.4
Agriculture	331.8	
Water resources	270.6	
Food security	0.0	
Finance and private sector development		486.3
Finance	53.0	
State-owned enterprises	433.3	
Investment climate and trade	0.0	
Mine action		54.5
Government institution, rule of law, civil society, and media		277.4
Cross-cutting themes, human rights, gender, the environment		73.4
Total		**$4,189.6**

Source: State Department.

Of the seven categories shown above, about $1.96 billion (47 percent of the total cost) has been requested for infrastructure projects; $737 million (18 percent of the total cost) for education, health, and labor and social affairs; and $602 million (14 percent of the total cost) for agriculture, water resources, and food security. According to documentation presented by Iraq's Minister of Planning and Development Cooperation at the Abu Dhabi conference, the priorities presented for donor consideration were vetted to

fit the country's economic plan, to be reconciled with Iraq's own capital spending plans, and to account for initiatives funded through the U.S. Iraq Relief and Reconstruction Fund.

The October 2003 U.N./World Bank assessment noted that Iraq's ability to absorb resources, particularly as it gains sovereignty and decision-making authority, will be one of the most significant challenges to reconstruction. The assessment also noted that the actual disbursement of committed donor funds is linked and likely to be limited by the current security situation, the current capacity in Iraqi institutions to plan and implement projects, and the state of infrastructure and energy services to support importation and distribution of physical assets. Our recent work on the Oil for Food program highlighted the history of inadequate oversight and alleged corruption in the program and raised questions about the Iraqi government's ability to manage the import and distribution of Oil for Food commodities as well as the billions in international reconstruction assistance expected to flow into the country.[12]

Conclusion



The United States, along with its coalition partners and various international organizations and donors, have provided or pledged substantial amounts of funds to help rebuild Iraq. The International Reconstruction Fund Facility and several Iraqi-led mechanisms have been set up to coordinate this assistance. The donor committee, of which the United States is a member, is to oversee the activities of the IRFFI. An important element for coordinating the reconstruction effort is the ability to track all donor contributions, including bilateral assistance, to identify the sectors receiving assistance and any gaps in assistance. However, these Iraqi-led mechanisms have not had the capability to track the total amounts of bilateral assistance flowing into Iraq. Building internal control and accountability measures into the operations of the Iraqi ministries will be critical to safeguarding the billions of dollars in U.S. and international funds that will be provided for reconstruction.

Oversight Questions



1. How is the United States ensuring that the billions of dollars in reconstruction assistance it is providing will not duplicate multilateral and bilateral assistance?

[12]See U.S. General Accounting Office, *United Nations: Observations on the Management and Oversight of the Oil for Food Program*, GAO-04-730T (Washington, D.C.: Apr. 28, 2004).

2. What mechanisms and criteria have the Iraqi Strategic Review Board and the Ministry of Planning and Development Cooperation implemented to ensure transparent and accountable decision making?

3. To what extent is U.S. assistance being applied to help develop the capacity of the Iraqi-led coordination process to ensure that multiple sources of funding are sufficiently tracked and coordinated?

4. What entity will replace CPA representation on the Iraqi Strategic Review Board? What entity will replace the CPA as the liaison with the Iraqi Ministry of Planning and Development Cooperation and the Council for International Coordination?

5. If the international community is unable to meet its pledged commitments, what impact will this have on U.S. reconstruction funding?

III. Resources

The Development Fund for Iraq

Issue

On May 22, 2003, United Nations Security Council Resolution 1483 recognized the establishment of the Development Fund for Iraq (DFI) to provide a repository for Iraqi funds to support the reconstruction of Iraq. DFI funds consist of oil proceeds, U.N. Oil for Food program surplus funds, and returned Iraqi government and regime financial assets. According to the resolution, DFI funds are to be used to meet the costs of Iraqi civilian administration, humanitarian needs, infrastructure repairs, economic reconstruction, and other purposes benefiting the people of Iraq. The resolution also noted that an independent external auditor approved by the International Advisory and Monitoring Board (IAMB) is to audit the DFI to ensure the transparent use of these DFI funds. The CPA, in consultation with the Iraqi administration, directed the disbursement of DFI funds. In June 2003, the CPA Administrator created the Program Review Board (PRB) to evaluate the proposed uses of U.S. appropriated and Iraqi funds, including DFI funds.[1] This enclosure describes (1) the sources of DFI funds, (2) the uses of DFI funds, and (3) the International Advisory and Monitoring Board's efforts to monitor DFI funds.

Results in Brief

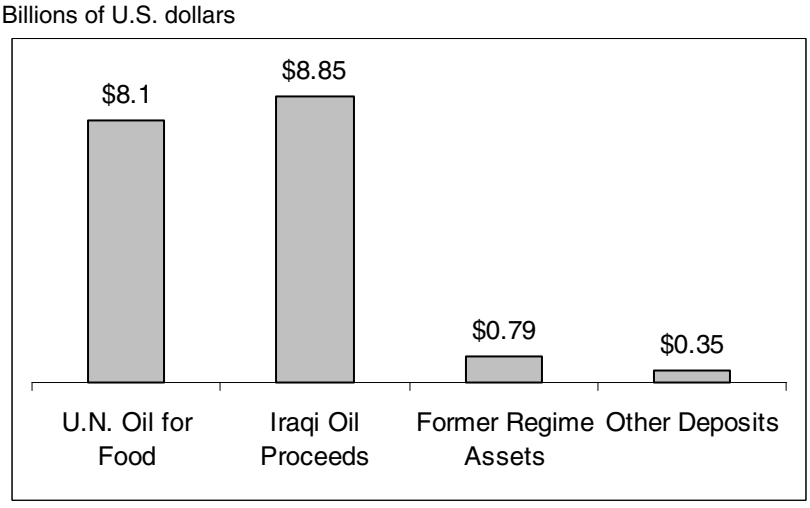
As of May 6, 2004, the DFI had received about $18 billion in deposits largely from U.N. Oil for Food surplus funds and proceeds from the sale of Iraqi oil. The majority of funds disbursed from the DFI have supported the Iraqi budget to cover Iraqi ministry operating expenses. The remaining DFI funds have been used for PRB-approved relief and reconstruction projects and programs. The IAMB has only recently begun to exercise oversight. The IAMB reached agreement with the CPA on the IAMB's terms of reference in late October 2003 and on the selection of an external auditor in March 2004 to review the operations of the DFI. According to U.N. Security Council Resolution 1546, the IAMB will continue its activities monitoring the DFI after CPA transfers power to Iraq.

[1]According to CPA officials, since at least March 2004, the PRB has recommended allocations almost exclusively from DFI funds.

Sources of DFI Funds

As of May 6, 2004, the DFI has received about $18 billion in deposits, largely from the U.N. Oil for Food program and oil proceeds.[2] The United Nations deposited $8.1 billion in surplus funds from renegotiated Oil for Food contracts in a series of transfers from May 2003 to April 2004. Net oil revenues of $8.8 billion from the sale of oil for export have been deposited since July 2003. Other sources of DFI funding have come from transferred Iraqi government financial assets. More than 10 countries and the Bank for International Settlements transferred several hundred to several hundred million dollars to the DFI.[3] In addition to these sources, other deposits to the DFI have been made since late June 2003, including $146 million from the World Food Program (see fig. III.1).

Figure III.1: DFI Deposits as of May 6, 2004



Source: GAO analysis of CPA data.

DFI Supports Iraqi Ministry Operations and Reconstruction Projects

The DFI is the major source of funds used to support the Iraqi budget.[4] As of May 6, 2004, the CPA had allocated about $13 billion of the $18 billion in

[2]As directed under U.N. Security Council Resolution 1483, 95 percent of oil proceeds are to be deposited in the DFI. The remaining 5 percent of oil proceeds are deposited into a U.N. Compensation Fund account to process and pay claims for losses resulting from Iraq's invasion and occupation of Kuwait.

[3]For more information, see U.S. General Accounting Office, *Recovering Iraq's Assets: Preliminary Observations on U.S. Efforts and Challenges*, GAO-04-579T (Washington, D.C.: Mar. 18, 2004).

[4]The CPA, the Ministry of Finance, and the Ministry of Planning and Development issued a 2004 budget in October 2003. It was revised in March 2004.

DFI funds, of which about $8.3 billion has been disbursed.[5] The CPA allocated and disbursed DFI funds[6] under three broad categories: Iraqi ministry operations and expenses, Program Review Board-approved projects, and regional programs. See table III.1 for details on DFI allocations and disbursements.

Table III.1: Project Allocations and Disbursements by Category, as of May 6, 2004

Millions of U.S. dollars

Purpose	Allocations	Disbursements
Ministry operations and expenses	$7,541	$6,106
PRB relief and reconstruction projects		
Humanitarian and human services	2,202	1,292
Essential services	1,439	316
Security	895	21
Economic reconstruction	224	182
Governance	34	21
Public buildings and other reconstruction	27	8
Regional programs	618	333
Total	**$12,981**	**$8,281**

Source: GAO (analysis) and CPA (data).

Note: Numbers may not total due to rounding.

Iraqi Ministry Operations and Expenses

From September 2003 to May 6, 2004, $7.5 billion was allocated from the DFI to support Iraqi ministry operations and expenses; of this amount, $6.1 billion has been disbursed. The amount of the monthly budget disbursements varied from a low of $433 million in October 2003 to nearly $1.5 billion in March 2004. These monthly disbursements covered salaries, pensions, operating costs, some capital project requirements, and transferred expenditures, such as the provision of food and other goods through the public distribution system.

Program Review Board Projects

From July 2003 to early May 2004, the CPA allocated about $4.8 billion for relief and reconstruction projects and services, of which $1.8 billion was

[5]The DFI operates as a series of bank accounts; disbursements are thus actually withdrawals or debits.

[6]Additional deposits and disbursements (accounting for a net balance of $46 million) were made for which we could not obtain detailed information. These transactions are not included in our totals.

disbursed. The process for obtaining DFI funds for these projects began with a written project request to the PRB from the CPA or the Iraqi ministries. Per CPA regulation 3, a Program Review Committee initially categorized, prioritized, and reviewed these project proposals in advance of the PRB. The PRB then reviewed the requests and recommended projects to the CPA Administrator for approval. Voting members of the PRB included five representatives from the CPA; the Director of the U.S. Agency for International Development, Iraq mission; and one representative each from the Commander of the Coalition Forces, the Iraqi Ministry of Finance, the Iraqi Ministry of Planning and Development Cooperation, the United Kingdom, Australia, and the Chairman of the Council for International Coordination.[7]

DFI funding for approved relief and reconstruction projects has generally fallen into six major categories: (1) humanitarian and human services, (2) essential services, (3) security, (4) economic reconstruction, (5) governance, and (6) public buildings and other reconstruction. Some of the larger DFI allocations and disbursements made between July 2003 and May 6, 2004, include the following:

Humanitarian and human services

- $1.86 billion was allocated for imports of liquid petroleum gas for domestic heating and cooking; about $1.07 billion was disbursed.
- $272 million was allocated for food procurement, transport, security, and production; about $204 million was disbursed.
- $22 million was allocated for agriculture; nearly $12 million was disbursed.

Essential services

- $972 million was allocated for power infrastructure; about $157 million was disbursed.
- $437 million was allocated for oil infrastructure; about $150 million was disbursed.
- $30 million was allocated for transportation and telecommunications; about $10 million was disbursed.

[7]In addition, the PRB Chairman was to cast the deciding vote on matters when PRB member votes were tied.

Security

- $842 million was allocated in late April and early May 2004 to address increased security needs, including resources for the Iraq security forces; about $2 million was disbursed.

- $52 million was previously allocated for police and security equipment; $20 million was disbursed.

Economic reconstruction

- $197 million was allocated for the currency exchange; about $180 million was disbursed.

- $27 million was allocated for microloans and employment programs; about $2 million was disbursed.

Governance

- $21 million was allocated and disbursed for regional governance.

Public buildings, miscellaneous ministry projects, and other reconstruction

- $18 million was allocated for a Program Management Office/Iraqi Ministry of Planning and Development Cooperation business complex; about $6 million was disbursed.

- $9 million was allocated for legal fees and settlements; about $3 million was disbursed.

According to the CPA, since May 6, 2004, the CPA Administrator approved additional PRB-recommended allocations totaling about $1.5 billion for the essential services, humanitarian and human services, and economic reconstruction projects, and for other purposes. Essential services projects include $460 million for the oil infrastructure and $315 million for the electricity sector. Humanitarian and human services projects include $200 million to maintain current levels of food procurement through 2004 and $65 million for agriculture development. Economic reconstruction projects include $65 million for vocational training and $65 million to provide capital to critical state-owned enterprises. Examples of other allocations include $180 million for the Iraq Property Claims Commission, $125 million to protect the Iraqi budget from oil revenue volatility, and $25 million for the Victims' Compensation Fund.

Regional Programs

The Commanders' Emergency Response Program and the Rapid Regional Response Program have been allocated DFI funds for local humanitarian, essential services, economic, general construction, security, and governance projects, as discussed below.

- Under the Commanders' Emergency Response Program, the CPA allocated $353 million through the multinational force[8] to military division and brigade commanders; about $214 million was disbursed.[9] According to multinational force officials, commanders have completed more than 21,000 small high-impact projects at an average cost of about $11,000. For example, as of May 8, 2004, multinational force officials reported that about $45 million had been disbursed for more than 4,100 education projects.

- The activities of the Rapid Regional Response Program incorporate and expand upon previous authorities of the Construction Initiative and the Directors' Emergency Response Program. Under the program, about $265 million in DFI funds[10] was allocated to regions and governorates; about $120 million was disbursed. According to CPA, more than 2,100 regional projects designed to create jobs, support local industry, and respond to community needs have been initiated across the northern, Baghdad central, southern central, and southern regions.

International Advisory and Monitoring Board Oversight

Nearly 1 year after the DFI was established, the IAMB approved an independent external auditor to support its oversight of the DFI. An important initial step to ensure the transparent use of DFI funds came 5 months after the May 2003 U.N. resolution recognized the establishment of the DFI.[11] During this period, the IAMB members and the CPA discussed

[8]The multinational force, formerly Combined Joint Task Force-Seven, became known as the Multi-National Force-Iraq on May 15, 2004.

[9]In addition to DFI allocations, the Commanders' Emergency Response Program has received nearly $179 million in seized assets and $140 million in U.S. appropriated funds from Army Operations and Maintenance, for which transfer authority was provided in the fiscal year 2004 supplemental.

[10]In addition to DFI allocations, the Rapid Regional Response Program received at least $46 million in seized funds.

[11]The IAMB chair is currently a U.N. Secretary General representative; representatives of the Arab Fund for Economic and Social Development, the International Monetary Fund, and the World Bank are the other executive head members. The IAMB also has five observers.

terms of reference for guiding the IAMB's operations. The terms of reference were eventually approved in late October 2003. U.N. Resolution 1483 also noted that the IAMB was to rely on independent, external auditors to ensure the transparent use of DFI funds. The external auditor began its work after the contract was signed on April 5, 2004.[12]

The auditor is to perform at least two audits, the first covering DFI transactions from its inception through December 31, 2003, and the second for the period January 1, 2004, through June 30, 2004. According to the contract's statement of work, the audit is to assess, among other things, whether (1) export sales of oil, petroleum products, and natural gas from Iraq were consistent with international best practices, and (2) DFI disbursements were used for the purposes for which they were intended. The contractor is required to produce the first report within 90 days of the contract award. Consistent with its terms of reference, the IAMB is to perform duties similar to those of an outside audit committee.

Under its terms of reference, the IAMB is also to monitor the financial reporting and internal control systems established by the CPA for areas covered by the external audit. The IAMB, in consultation with the CPA, can also determine whether special audits are warranted. Since March 2004, the IAMB has raised issues with the CPA, including concerns about controls over Iraq oil extraction and the CPA's internal control and financial reporting systems.

- **Crude oil extraction:** After reviewing information from the CPA on crude oil extraction controls, the IAMB recommended in March 2004 that metering equipment be expeditiously installed. According to the Ministry of Oil and the IAMB, an absence of functioning meters precludes control over the distribution and sales of crude and refined products. In May 2004, the CPA approved an allocation of $5 million in DFI funds to (1) determine where meters are currently installed, evaluate their condition, and recommend locations for additional meters; (2) make necessary repairs, install new meters, and calibrate all meters; and (3) establish a central control facility to collect all metering data. A CPA senior advisor estimated the project's duration at 1 year or less, but said that each phase of the project would potentially be affected by Iraq's poor security environment. He also said that the project would require visiting many different offshore and onshore sites, and the protection of those conducting the assessment would be difficult. In June 2004, the IAMB noted that the award of metering contracts has been delayed and urged quick resolution of this issue.

[12]The PRB approved a commitment of almost $6 million in DFI funds to pay for the external audit.

- **CPA internal control and financial reporting systems:** The IAMB also sought clarification from the CPA on its internal controls and financial reporting systems. The CPA briefed the IAMB on the Program Review Board and contracting processes, and on the status of the DFI account, financial operations, and the budget process. The CPA revised the financial reporting on the status of the DFI that appeared on its Web site. The IAMB expressed concern about the use of noncompetitive bidding practices to award DFI funds and advised the CPA to take steps to limit future noncompetitive awards to exceptional circumstances. In April, May, and June 2004, the IAMB reported that it had requested access to audits of sole-source contracts let from DFI funds, including those by the Defense Contract Audit Agency, but had not received them as of June 22, 2004.[13] The IAMB also reported in June 2004 that it had decided to commission a special audit to determine the extent sole-source contracts had been used.

On June 8, 2004, the U.N. Security Council adopted Resolution 1546, which noted that Iraqi oil proceeds would continue to be deposited in the DFI. The resolution also noted that the IAMB shall continue monitoring DFI activities after CPA transfers power to Iraq. In addition, the resolution noted the inclusion of a full voting member designated by the government of Iraq to the board.

Conclusion



The Development Fund for Iraq has been the primary funding source to fully support the interim Iraqi civil administration and projects of varying magnitude in many reconstruction sectors. Given that the CPA oversaw and controlled the use of the DFI, transparency and accountability over the use of the funds has been essential to assuring Iraqis and the international community that the funds have been used to benefit the Iraqi people. However, almost 1 year passed before the external auditor contract was awarded to review the DFI's operations. Thus, transactions worth billions of dollars in Iraqi funds have not been independently reviewed or the results reported. The contractor is not required to report on the results from the first audit until after the scheduled transition of the CPA's authority to Iraq.

[13]As of May 2004, DCAA had audits under way on contracts awarded for projects with both U.S. appropriated and DFI funds.

Oversight Questions



1. What were the reasons for the delay in IAMB's oversight of the DFI? To what extent will these delays affect IAMB's ability to conduct its oversight responsibilities in an expeditious and thorough manner?

2. What measures will be in place to ensure the transparent use of funds after the transition?

3. Will any further U.N. Oil for Food surplus funds or former regime assets be available for deposit into the DFI after the transition?

4. What plans were made to address how the CPA was to transfer the management of the DFI to the transitional Iraqi administration?

5. What interim plans have been made to respond to IAMB concerns about ensuring oil sales are consistent with prevailing international market best practices?

6. How would significant reductions in oil exportation due to pipeline sabotage or other factors impact the sustainability of the Iraqi budget and U.S. reconstruction plans?

7. Who will assume responsibility for overseeing and managing DFI-funded CPA contracts let prior to the June 28 transition?

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IV. Resources

CPA Staffing for the Iraq Reconstruction Effort

Issue

The United States has made an enormous commitment of financial resources toward the reconstruction of Iraq, which was managed by the Coalition Provisional Authority (CPA) and supported by personnel from the United States and coalition partners. The CPA's personnel needs increased as it acquired new missions, elements, and responsibilities.[1] This increase presented additional demands on U.S. and coalition resources to provide adequate numbers of personnel to support the reconstruction effort. This enclosure provides information on (1) the composition of the CPA, and (2) the means by which the United States provided personnel to support the CPA and some of the challenges associated with that effort.

Results in Brief

Staffing of the CPA was dependent on personnel from multiple sources—including U.S. and international military staff and civilians, a large number of which were temporary hires or contractors. The U.S. effort to provide staff to the CPA changed as the mission evolved from a reconstruction and humanitarian coordination effort to the temporary administration of the government of Iraq, and as staffing requirements changed. In addition, the CPA generally operated with about one-third fewer staff than it required. The CPA and U.S. agencies faced multiple challenges—bureaucratic, logistical, and budgetary—in meeting CPA staffing requirements and employed special hiring authorities and incentives to overcome them.

Coalition Provisional Authority Staff from Multiple Sources

Personnel directly supporting the CPA included U.S. and coalition military personnel, U.S. and coalition civilian employees, contractors, civilians hired under special authorities, and Iraqi expatriates from the Iraq Reconstruction and Development Council (IRDC). Coalition detailees to the CPA included personnel from Australia, the Czech Republic, Denmark, Italy, Japan, Poland, Romania, Spain, United Kingdom, Ukraine, and other coalition member countries. Additional indirect support—such as security, transportation, and translation services—was provided to the CPA by

[1]In January 2004, the CPA's Inspector General office was staffed. More recently, the transition of power expected in June 2004 affected CPA requirements.

personnel from various entities, including the United Kingdom, the Combined Joint Task Force-Seven (CJTF-7),[2] the U.S. Army Corp of Engineers, interpreters, and the company Kellogg, Brown and Root.

In the early stages of the rebuilding effort, the Office for Reconstruction and Humanitarian Assistance (ORHA), the organization responsible for managing postwar activities, was composed of about 350 direct and indirect support personnel. This group grew to about 600 while deployed to Kuwait. By May 2004, the group had advanced to Baghdad and grew to about 1,100 personnel. With the establishment of the CPA and the mission's growth, these numbers increased in total to more than 6,000 direct and indirect positions as of April 2004. Of this number, about 1,200 directly supported the CPA mission.

Although the total number of CPA personnel fluctuated as staff requirements changed and personnel rotated through Iraq, the composition of personnel remained consistent. The military services provided the largest portion of CPA personnel—an average of about 28 percent. Approximately 26 percent were civilian detailees from numerous U.S. federal agencies, including the Defense Department (DOD), and an average of 13 percent were detailees from other coalition countries.[3] About 25 percent were contractors and temporary U.S. government employees hired under a special authority.[4] The agency officials we talked to from the Department of State, U.S. Agency for International Development (USAID), and Army Corps of Engineers stated that they had relied on volunteers—exclusive of U.S. military personnel—to meet the demand for CPA staff and had not resorted to forced placement.[5] Table IV.1 shows the composition of CPA direct support personnel from March until June 2004.[6]

[2]As of May 15, 2004, this entity became known as Multi-National Force-Iraq.

[3]U.S. civilian personnel were detailed to the CPA from various U.S. agencies, including the Departments of Agriculture, Commerce, Energy, Defense, Homeland Security, the Interior, Labor, State, Transportation, the Treasury, Veteran Affairs, the Office of Management and Budget, the National Aeronautics and Space Administration, U.S. Agency for International Development, U.S. Postal Service, U.S. Public Health Service, and the Federal Aviation Administration.

[4]Under 5 USC 3161, the head of a temporary organization may appoint persons to positions of employment in such numbers and with such skills as are necessary to perform the functions required.

[5]The Secretary of State solicited staff outside of the standard placement process through cables requesting civil and foreign service volunteers for 3-month and, later, 6-month tours.

[6]Reliable data on the composition of staff were not available for the period prior to March 1, 2004.

Table IV.1: Personnel Composition of Direct CPA Support in Baghdad from March until June 2004

Type of personnel	March 8, 2004	April 6, 2004	May 4, 2004	June 2, 2004
Special Hiring Authority 3161	226	237	240	203
Coalition detailees	172	160	141	120
U.S. detailees (not including DOD)	149	208	207	209
DOD military	293	377	326	292
DOD civilian	168	81	88	92
Contractor	62	73	72	66
IRDC	28	27	30	27
Personnel in process	98	76	57	41
Total	**1,196**	**1,239**	**1,161**	**1,050**

Source: Coalition Provisional Authority.

Note: According to CPA officials, the data presented above are about 90 percent accurate due to the difficulties of tracking personnel entering and exiting Iraq.

In May 2004, the CPA began to decrease personnel in anticipation of the transition of authority to the Iraqis and the dissolution of the CPA at the end of June 2004. As of June 2, the CPA had a total of 1,050 personnel in Iraq who directly supported the mission. Several elements of the CPA were identified to continue the U.S. effort in Iraq after the transition. According to CPA officials, preliminary plans called for a continued ministry advisory team, a headquarters support group, military and police training teams, and governance teams. A May 11, 2004, National Security Presidential Directive stated that the U.S. Mission in Baghdad and its temporarily established Iraq Reconstruction Management Office will assume those authorities and responsibilities that will continue after the termination of the CPA. The directive also states that the United States Central Command shall continue to be responsible for U.S. security and military operation efforts.

Challenges to U.S. Staffing of Coalition Provisional Authority

The process for meeting the CPA requirements for U.S. personnel evolved as the CPA's mission changed. The original mission of CPA's predecessor, the Office for Reconstruction and Humanitarian Assistance, was to coordinate the efforts addressing the humanitarian, reconstruction, and administration challenges facing Iraq—not to govern the country. In May 2003, CPA replaced ORHA when it became the temporary authority governing Iraq during the period of transitional administration.

The initial staffing process for the reconstruction effort was not always well coordinated between Washington and Baghdad. CPA officials stated that, prior to the CPA's establishment, the requirements for staff were identified and personnel were recruited in an ad hoc manner. For example, U.S. officials from the CPA and the State Department stated that, due to the independent recruiting of staff by some detailees in Baghdad, agency personnel authorities were unaware of personnel who went to Iraq after the

initial deployment in March 2003. Further, officials from the State Department responsible for staffing personnel to Iraq stated that they ultimately sent a representative to Baghdad to physically account for all State Department personnel present in the country. According to a CPA official, by July 2003, the process for identifying personnel requirements was centralized in Baghdad under the guidance of the CPA administrator.

In addition, the CPA had generally operated with about one-third of its direct positions vacant. U.S. and CPA officials most frequently cited the hardship of the posting and the budgetary implications as the reasons for this situation. The hardship of the posting has affected some civilian agencies' abilities to meet their staffing requirements. The security situation in Iraq has also made it difficult to attract and retain personnel. For example, USAID officials cited the security situation as a reason for the early return of some staff and the difficulty in filling direct-hire positions in Iraq. Further, State Department officials stated that some qualified agency personnel who had volunteered to go to Iraq were unable to meet the required medical standards. Another dimension of the hardship of the posting is the limitations of family accompaniment. Beginning in November 2003, the CPA requested that all personnel serve a minimum of 6 months. According to USAID officials, in some cases this required Foreign Service personnel to relocate family members from their previous posts to the United States.[7] State Department officials also cited family relocation issues and travel plans as reasons for delays in providing personnel to Iraq.

State Department officials stated that they had no difficulty in recruiting volunteers for positions in Iraq, attributing this largely to Secretary Powell's support for the mission, incentive packages, and the department's efforts to ensure that those who served in Iraq were not disadvantaged. Other agencies, such as USAID and the U.S. Army Corps of Engineers, while also relying on volunteers, stated that they were constrained in their ability to meet staffing requirements. USAID and Army Corps of Engineers officials said that prior downsizing had left their agencies with a smaller pool of personnel from which to draw. Additionally, some requirements that the CPA attempted to meet were beyond the capability of the agency tasked. For example, according to Department of Justice officials, the department was requested to provide three international law litigators to the CPA but had only three such personnel. To meet the requirement, Justice provided one litigator to the CPA.

In addition, providing personnel on a nonreimbursable basis to the CPA creates an unbudgeted expense to the supplying agency. Replacing detailees creates additional costs for the agencies that their budgets may not be able to sustain. Further, detailing of staff not only creates gaps in the

[7]USAID officials stated that family members are currently not permitted to relocate to countries in the Middle East during a spouse's assignment in Iraq.

supplying agency but increases the workload of those remaining. According to State Department officials, this burden could not be sustained beyond 6 to 12 months.

To counter these challenges, the CPA and executive branch agencies have relied on a number of mechanisms to support the staffing effort, including the use of special hiring authorities, temporary tours of duty (60 to 180 days), and incentive packages. The CPA had relied on a special hiring authority under 5 USC 3161 to obtain temporary civilian employees. Personnel obtained under this authority constituted about 20 percent of CPA staff. The passage of the emergency supplemental in November 2003 provided a specific budget to the CPA. According to a CPA official, this budget imposed a funding limit on CPA's ability to hire personnel under the 3161 authority. In addition, agencies used temporary tours of duty to supply personnel to the CPA due to the hardship of the posting. Agencies also used incentive packages to compensate civilian personnel, which included danger-pay allowances and hardship differential payments.

Conclusion

The United States and the coalition have faced many challenges in identifying, obtaining, and organizing the human resources required to help stabilize and reconstruct Iraq. The U.S. Mission in Baghdad and its temporarily established Iraq Reconstruction Management Office are likely to continue to draw upon staff from multiple sources with the transition of power to the Iraqi interim government. The mission will also continue to face challenges, such as the hardship of the posting, in meeting its requirements.

Oversight Questions

1. What lessons have been learned about the staffing challenges CPA faced in fulfilling its administrative mission and managing the reconstruction effort?

2. How can the U.S. process for staffing a temporary emergency organization, such as the CPA, be improved if the need arises?

3. What steps have been taken to ensure sufficient personnel are available to staff the new U.S. Mission in Iraq?

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V. Security

Iraq Security Trends

Issue

Since the President declared an end to major combat operations on May 1, 2003, the United States had obligated almost $53.3 billion through March 2004 to stabilize the security situation in Iraq. This figure includes about $52.1 billion for U.S. military participation in the multinational force[1] and almost $1.2 billion for Iraqi security forces.[2] This enclosure provides information on (1) current and projected trends in the security situation, and (2) the impact of the security situation on military and civilian operations.

Results in Brief

Our analysis of information from the United Nations, nongovernmental organizations, the Department of Defense (DOD), and the U.S. Agency for International Development (USAID) indicates that the security situation in Iraq began to deteriorate during June 2003, with significant increases in attacks against the coalition and its partners—international and Iraqi—in October-November 2003 and again in April-May 2004. Moreover, since June 2003, the attacks have become more sophisticated, widespread, and effective. In May 2004, the Secretary of Defense and the Commander of U.S. Central Command projected that the level of violence could continue to increase as Iraq moves toward elections for a transitional government, currently scheduled to be held by the end of January 2005.

The increase in attacks has had a negative impact on the presence and operations of international military and civilian personnel in Iraq. In late April 2004, the Deputy Secretary of Defense stated that the multinational force was engaged in combat in Iraq, rather than in peacekeeping as had been expected. About that time, the United States decided to maintain a force level of about 138,000 troops until at least the end of 2005, rather than drawing down to 105,000 troops by May 2004 as DOD had announced in

[1]DOD obligation data as of March 31, 2004. In addition, DOD obligated about $12.2 billion for U.S. military operations in Iraq before April 30, 2003, for a total obligation of $64.3 billion for U.S. military operations during Operation Iraqi Freedom.

[2]U.S. obligations for Iraqi security forces as of April 2004.

November 2003. On the other hand, other countries participating in the multinational force, the United Nations, numerous nongovernmental organizations, and some civilian contractors have reduced their presence or completely shut down operations, while the CPA and U.S. government agencies have severely restricted staff movement around the country. No overall data exist on the effects of these restrictions on political transition and reconstruction efforts in Iraq. However, available evidence suggests that, in general, international civilian staff have had increasingly reduced contact with the Iraqi people. Iraqi staff working for the coalition, including interpreters, have come under increasing threats for cooperating with foreign organizations. Many important reconstruction efforts had to be delayed or cease, and the civilian organizations that remained have faced increased security requirements for their personnel and compounds in the country. U.N. officials and documents have expressed concern that the dangerous security environment could hinder the implementation of Iraq's upcoming elections process.

Current and Projected Trends in the Security Situation

Security Situation Began to Deteriorate in June 2003

According to U.N. reports, the security situation in Iraq began to deteriorate in June 2003. Reports from the U.N. Office of the Humanitarian Coordinator for Iraq show that attacks against international organizations and the multinational force began to increase during June and July 2003.[3] The U.N. Secretary General reported[4] that the overall security situation had deteriorated dramatically by the end of August 2003, a month marked by the bombing of the Jordanian embassy on August 7, the bombing of the U.N. headquarters in Baghdad on August 19, and the killing of an important Shi'a leader on August 29. By September 2003, according to the U.N. Secretary General's report, Iraq had entered a new phase. All international organizations and contractors, as well as Iraqis cooperating with the CPA, were potential targets of deliberate, direct, and hostile attacks. The assessments of contractors and nongovernmental organizations with whom we met generally agreed with the U.N. assessment of these security trends.

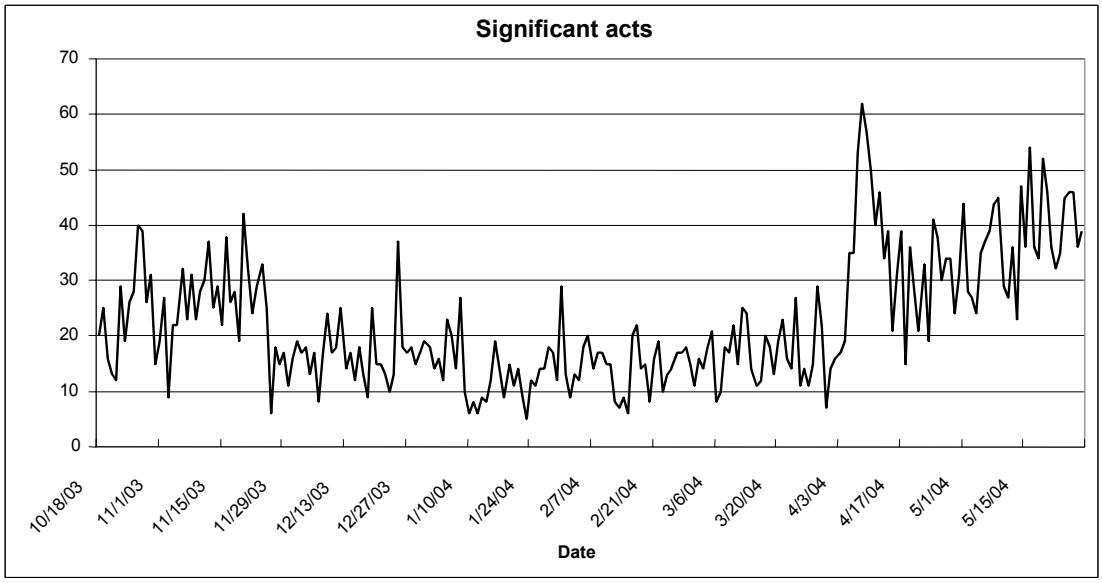
Various U.S. and U.N. reports and data indicate that violence escalated sharply against the coalition, Iraqis cooperating with the coalition, international organizations, and international civilian aid groups and

[3]Iraqis have also faced outbreaks of inter-ethnic violence and a large amount of common crime, but we could not identify sources of systematic data on either issue.

[4]Report of the Secretary-General pursuant to paragraph 24 of resolution 1483 (2003) and paragraph 12 of resolution 1511 (2003); U.N. Security Council S/2003/1149; December 5, 2003.

contractors in October-November 2003 and again in April-May 2004. CPA data show an extended increase in certain significant insurgent activities[5] during those two periods, with the level of the attacks in April-May 2004 exceeding the level of attacks during October-November 2003 (see fig. V.1). In April 2004, Sunni insurgents fought the multinational force in Fallujah, Ramadi, Samarra, and Tikrit, while a radical Shi'a militia attacked the force in the southern cities of Karbala, Kut, Nassiriyah, Kufa, Najaf, and Basra, as well as in part of Baghdad.

Figure V.1: Trends in Certain Significant Insurgent Acts, October 18, 2003, through May 28, 2004

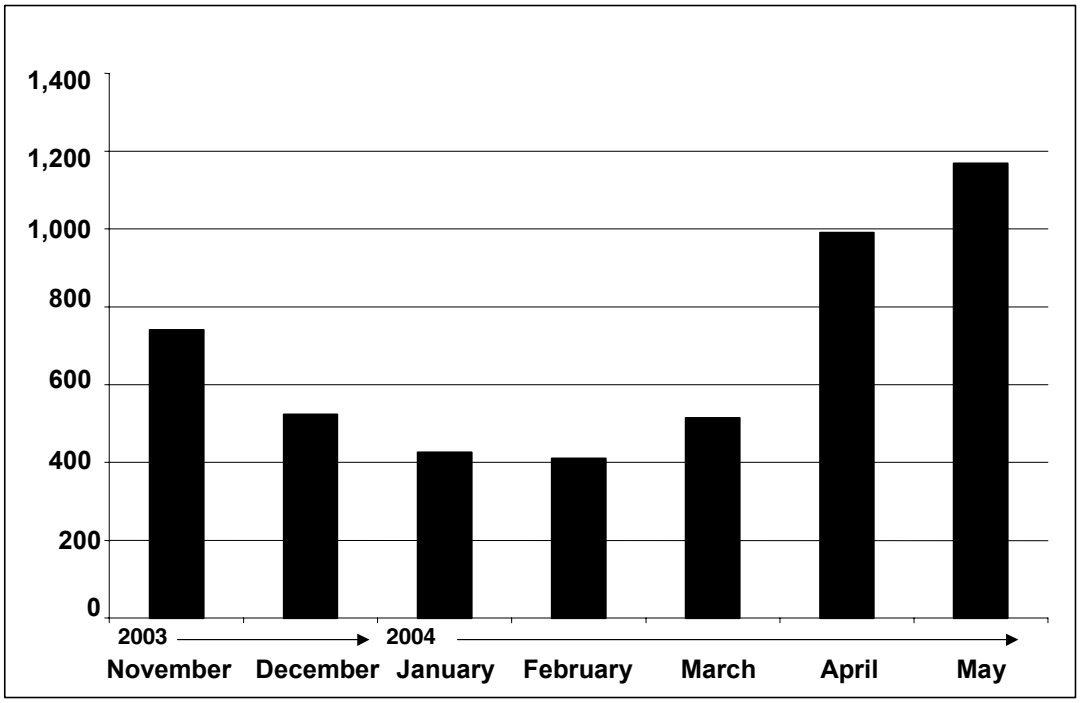


Sources: CPA Office of Policy Planning and Analysis; Regional Security Coordination Center.

According to CPA data, the number of significant insurgent acts against the coalition declined soon after the early April escalation but then rose again in May, with the number of attacks in May exceeding the number of attacks in April (see fig. V.2).

[5]CPA data of certain significant insurgent activities include selected reported attacks affecting coalition operations reported and documented through the multinational force. In assessing security trends, the CPA counts attacks using improvised explosive devices, vehicle-borne improvised explosive devices, mortars, rocket-propelled grenades, and improvised rockets. CPA does not count small-arms fire, hand grenade attacks, and other hostile activities, including most assassinations, kidnappings, and hijackings. According to a CPA official, the number of all hostile acts against the coalition would be higher than the number included here.

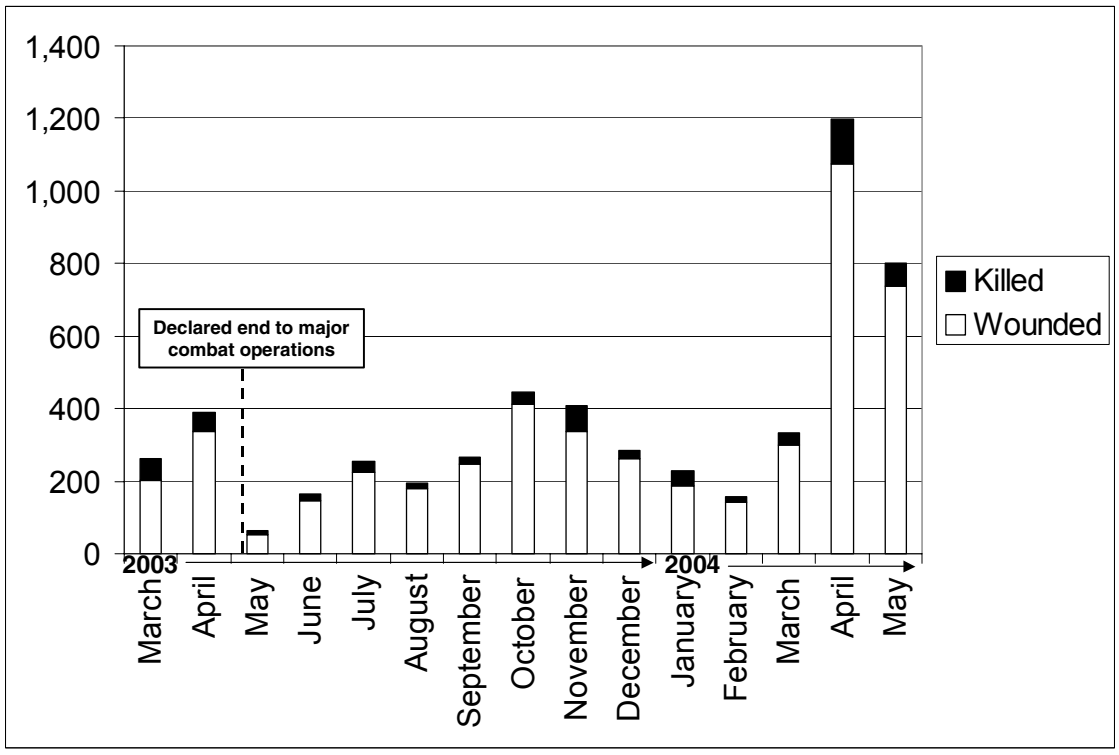
Figure V.2: Number of Certain Significant Insurgent Acts, by Month, November 2003 through May 2004



Sources: CPA Office of Policy Planning and Analysis; Regional Security Coordination Center.

DOD data on the number of U.S. military personnel killed or wounded due to hostile action in Iraq generally support U.N. and CPA assessments of the security situation since the declared end of major combat operations. As shown in figure V.3, initial increases in U.S. military casualties in June-July 2003 were followed by much more significant increases in October-November 2003 and April-May 2004. While the number of significant insurgent acts against the coalition increased from April to May, the number of U.S. military casualties declined.

Figure V.3: Number of U.S. Military Personnel Killed or Wounded Due to Hostile Action in Iraq, March 2003 through May 2004



Source: Department of Defense.

Overall, according to U.N. and U.S. reports, the nature of the attacks against the coalition and its partners changed significantly from the summer of 2003 through the late spring of 2004 in terms of their targets, source, location, sophistication, and effectiveness. In general, the insurgents' targets expanded to cover almost all foreign groups operating in Iraq, whether military or civilian personnel, as well as Iraqi security forces and Iraqi political leaders viewed as collaborating with the occupation. Further, the group of insurgents grew from former regime loyalists to include foreign terrorists, Sunni Islamic extremists, and, most recently, Shi'a radicals. The areas of instability expanded from Baghdad, the Sunni Triangle, and to a lesser extent the Kirkuk and Mosul areas that were already very unstable due to ethnic and political tensions, to include majority Shi'a areas in the south.

Iraqis View Security as Most Pressing Issue

According to State Department public opinion polls, the majority of Iraqis remain extremely concerned about the security situation in their country. The State Department reported in early January 2004 that about 62 percent of residents in five Iraqi cities named safety and security as their greatest worry. According to a late January 2004 State Department report, Iraqis tended to fear general street crime and low-grade explosions as the greatest

threats to self and family. This poll also showed that most Iraqis see the greatest threat to their country's security to be sectarian or ethnic conflict and large-scale attacks. In a later polling report published in mid-June 2004, the State Department reported that security remained the most urgent issue for residents of five Iraqi cities.

Attacks May Continue to Escalate through Early 2005

In late May 2004, the President said there is likely to be more violence in Iraq after the transfer of power. He noted that there are difficult days ahead, and the way forward may sometimes appear to be chaotic. One week earlier, the Commander of the U.S. Central Command had predicted that the situation in Iraq will become more violent after the transfer of power as the country moves toward elections for a new government, which are currently scheduled to be held by January 2005. Further, the Secretary of Defense said in early May 2004 that there will be uncertainty in Iraq and increased attacks against the coalition, Iraqis, and the United States during the period leading up to the elections.

Military and Civilian Responses to the Deteriorating Security Situation

In April and May 2004, the Deputy Secretary of Defense said that the multinational force was engaged in combat and a continuing war in Iraq, rather than peacekeeping as had been expected. The increase in attacks has had a negative impact on the presence and operations of international military and civilian personnel in Iraq. It has led to an increase in U.S. force levels and to a decrease in freedom of movement for international civilians working to rebuild Iraq and assist in its political transition.

United States and United Kingdom Increased Troop Levels as Other Coalition Members Reduced Them

As a result of the increase in violence during April 2004, the United States and the United Kingdom decided to increase their overall force levels in the country. The United States decided to maintain a force level of about 138,000 troops until at least the end of 2005, keeping about 33,000 more troops in Iraq as of May 2004 than the 105,000 troops originally planned. On May 24, 2004, the President said that if military commanders determine that they need more troops to fulfill the mission, he would send them. The following week, the United Kingdom announced that it would send an additional 370 troops to southern Iraq in response to the increased violence, bringing its total troop contribution to the multinational force to about 8,900 military personnel. This figure includes 170 engineering personnel who would deploy for 3 months to help fortify U.K. military bases and facilities in Iraq against the increased threat of mortar and rocket attacks.

In mid-April 2004, the new government of Spain announced that it would withdraw its 1,300 troops from Iraq. The government withdrew the troops much earlier than the United States expected, after violence escalated in the Spanish area of operations in Iraq. Shortly thereafter, Honduras and the Dominican Republic announced they would also withdraw their national contingents from the multinational force.

During April 2004, the United States redeployed forces from Baghdad and northern areas of Iraq to cities in the south that had come under the control of a radical Shi'a militia. The United States did so because Iraqi security forces and at least one contingent of the multinational force would not or could not fight the insurgents. For example, according to a CPA official, Iraqi police in the cities of Karbala, Najaf, and Kut collapsed in April when a radical Shi'a militia overran the cities and took control of police stations. Moreover, according to a USAID report, after heavy fighting in the city of Kut, a non-U.S. contingent of the multinational force withdrew from the city as the militia overran it.

International Civilian Organizations Have Reduced Operations in Iraq and Have Faced Increased Security Requirements

The deteriorating security situation has also adversely affected the operations of civilian organizations in Iraq. The dangerous environment has led many to halt operations completely or to reduce activity by severely restricting staff movement around the country. No systematic data exist on the effect of these restrictions on efforts to assist in Iraq's political transition and reconstruction. Anecdotal evidence suggests, however, that the efforts overall have been scaled back.

In general, international civilian staff have had increasingly little contact with the Iraqi people, and Iraqi staff working for the coalition, including interpreters, have been increasingly threatened for cooperating with foreign organizations. Many important reconstruction efforts had to at least temporarily cease operation. Civilian organizations that continue to operate in the country face increased security measures for their personnel and compounds in the country. The following examples show the effect of the security situation on the operations of the CPA and supporting U.S. agencies, reconstruction contractors, international organizations, and nongovernmental aid organizations.

- Due to the unsafe security environment, the CPA and its supporting U.S. agencies have had difficulty staffing their operations, opening offices throughout the country, and providing protection for U.S. civilian personnel as they travel around the country. U.S. agencies, particularly USAID, had difficulty in attracting and retaining personnel because of

security concerns.[6] In addition, according to a CPA official, as the security situation worsened during 2003, the CPA abandoned plans to fully staff offices throughout Iraq to assist in Iraq's political transition and reconstruction and instead established a much smaller field presence. Further, the CPA established stringent security measures that U.S. government staff had to follow in traveling outside the Green Zone, the coalition's "safe area" in Baghdad, thereby making it difficult for them to move around the country. In late February 2004, the Department of Homeland Security decided to stop sending teams of customs investigators to assist CPA. They could no longer do their jobs because it had become too dangerous for them to move around the country. CPA officials also stated that they were concerned about the safety of their Iraqi employees, particularly their interpreters, as insurgents had increasingly targeted them for cooperating with the coalition.

- In an April 17, 2004, document, the CPA administrator stated that lack of security is the key obstacle to reaching reconstruction objectives. Referring to the entire reconstruction program, the administrator stated that a worsened security situation would mean that projects would take longer to complete and that the kinds of projects undertaken and their costs would change to an unknown extent. Our review of selected electricity projects showed that the security situation delayed the implementation of key projects, thereby contributing to the CPA not meeting its objective of providing 6,000 megawatts of electrical generating capacity to the Iraqi people by its original goal of June 1, 2004.[7] In late March 2004, the CPA Inspector General reported that that rising security concerns were a significant cost driver for CPA activities and contractor projects, representing at least 10 percent to 15 percent of total costs.

- The United Nations and its programs have faced significant setbacks as a result of the deteriorating security situation. Most importantly, after the attacks on the U.N. headquarters in Baghdad in August and September 2003, the U.N. Secretary General redeployed all U.N. international personnel from Baghdad, Basra, and other area offices to neighboring countries, particularly Jordan and Kuwait, where they have continued to support assistance operations inside Iraq.[8] As of late May

[6]See enclosure IV of this report for more information on staffing.

[7]See enclosure X for more information on these electricity projects.

[8]The Secretary General left a small core presence of international staff in Erbil, Iraq. These staff were to help phase down and terminate the Oil for Food program by November 21, 2003.

2004, the United Nations had not allowed most of its international personnel to return to Iraq.[9] Although Iraqi staff continued some U.N. programs, the United Nations had to scale down or delay both ongoing activities and new initiatives. The United Nations sent three separate assessment teams to Iraq during the first half of 2004 to assist Iraqis in assessing options for forming an interim government and in preparing for national elections. The dangerous security situation forced these teams to restrict their travel around Iraq during the first half of 2004, thereby limiting their interaction with Iraqis during important political discussions about the country's future.

- In discussions during the fall of 2003 and the spring of 2004, nongovernmental organization representatives stated that the deteriorating security situation has forced numerous nongovernmental aid organizations to reduce or shut down operations in Iraq. In response to the dangerous security environment, many nongovernmental organizations and contractors that we interviewed have hired private security to provide protection for their staff and compounds. In addition, one representative emphasized his view that as more international workers leave Iraq, insurgents will increasingly focus their efforts on killing Iraqi nationals who are seen as collaborators.

U.N. officials and documents have expressed concern that the lack of security could threaten Iraq's transition toward a democratic government. According to a U.N. assessment, the lack of security may lead to major disturbances that could undermine the administration of the elections, alter the established timetable, and compromise the overall credibility of the process. By mid-April 2004, the multinational force had begun to consider how it could provide security, logistical, and other support for the elections, but the United Nations and others had not yet developed a specific plan for important tasks such as the registration of political parties, voters, and candidates or the number and locations of polling sites.

Conclusion

Since June 2003, the security situation has become more dangerous for international military and civilian personnel operating in Iraq and for Iraqis who work with them. Instead of engaging in post-conflict nation building, the United States and its partners have been rebuilding the country in a wartime environment. They have attempted to combat a growing insurgency through military, economic, and political measures. The deteriorating security situation, however, has generally hindered the implementation of economic reconstruction and political transition efforts.

[9]According to a U.N. official, the United Nations has maintained a small office in Baghdad for the past several months.

The United States has had to rely more heavily on the military than it initially planned. U.S. officials have stated that the violence in Iraq may get worse as the country moves toward national elections by early January 2005.

Oversight Questions



1. In light of the dangerous security situation, how can the United States better protect international civilian personnel so that they can more actively assist Iraqis in the country's political transition and reconstruction?

2. What contingency plans exist to address increased attacks against the coalition? How many more U.S. or other multinational force troops would be needed if the security situation were to deteriorate further?

VI. Security

Transitioning Security Missions to Iraqi Forces

Issue

Under U.N. Security Council Resolution 1546, the U.S.-led multinational force has the authority to take all necessary measures to contribute to the maintenance of security and stability in Iraq in accordance with letters annexed to the resolution. Toward that end, the force conducts offensive operations to defeat forces opposed to the coalition, as well as stability operations to provide security needed for the country's political transition and reconstruction. The multinational force is also organizing, training, equipping, mentoring, and certifying Iraqi security forces so that it can transfer security responsibilities to them and eventually draw down the multinational force. This enclosure describes the (1) multinational force's plan for transitioning security responsibilities to Iraqi security forces, and (2) progress in developing Iraqi security forces as of May 2004.

Results in Brief

The multinational force's security transition plan calls for a four-phased transfer of security responsibilities from the multinational force to effective Iraqi security forces. As of March 26, 2004, Iraq had about 203,000 security personnel of greatly varying capabilities. Of these forces, only the Iraqi Armed Forces are specifically mandated for the military defense of Iraq, while the others are intended exclusively for civil law enforcement and protection duties. However, according to senior DOD officials and multinational force documents, these security forces, especially the Iraqi Police Service and Iraqi Civil Defense Corps, were insufficiently trained and equipped for these duties. During the escalation of violence that occurred during April 2004, some of these security forces collapsed. The multinational force has taken action to address training and equipping problems, but it is unclear how this will affect the long-term plan to shift security responsibilities to Iraqi forces.

Security Transition Will Transfer Control to Iraqis in Four Phases

Since the fall of 2003, the multinational force has developed and refined a plan to transfer security responsibilities to Iraqi security forces in four phases. In October 2003, a multinational force document outlined the security transition concept, including (1) an initial phase, called mutual support, where the multinational force establishes conditions for

transferring security responsibilities to Iraqi forces; (2) transition to local control, where Iraqi forces in a local area assume responsibility for security; (3) transition to regional control, where Iraqis are responsible for larger regions; and (4) transition to strategic over watch, where Iraqi forces on a national level are capable of maintaining a secure environment against internal and external threats, with broad monitoring from the multinational force. Transition through these phases is contingent on decreasing threat capability, increasing Iraqi security capability, and the ability of civil administration to exercise control of Iraqi forces.

According to the multinational force document, transferring control for local security to Iraqis should allow the multinational force to reduce the number of troops devoted to stability operations and reduce the number of forward operating bases. This would allow the multinational force to focus on offensive operations against coalition opponents.

The multinational force began to shift responsibilities to Iraqi security forces in February 2004, earlier than planned, citing the growing capability of these forces. In Baghdad, for example, the coalition forces withdrew to bases outside of the city, giving Iraqi forces greater responsibility for security within the city. According to State Department public-opinion polls published around that time,[1] about 20 percent of Iraqis said that the multinational force was very effective at keeping law and order on the streets ,and one-third believed the force was very effective in protecting Iraqis from major threats and civil war. Furthermore, Iraqis preferred that more security responsibilities be transferred to their own police and army. In a later polling report published in mid-June 2004,[2] the State Department said that Iraqis viewed the multinational force as part of the security problem, not the solution. According to the report, Iraqis were confident that Iraqi security forces would be able to maintain security without the multinational force.

Iraqi Security Forces Were Unprepared to Assume Security Responsibilities

Iraqi security forces include more than 200,000 members of the armed forces, police, and other agencies of the Ministry of Interior. These forces have varying missions and capabilities, but most are not trained or equipped to engage well-armed insurgents. The CPA and multinational force reported problems in training and equipping these forces in 2004. According to

[1]U.S. Department of State, Opinion Analysis, Office of Research, M-03-04, Washington, D.C. (Jan. 6, 2004); U.S. Department of State, Opinion Analysis, Office of Research, M-13-04, Washington, D.C. (Jan. 29, 2004).

[2]U.S. Department of State, Opinion Analysis, Office of Research, M-71-04, Washington, D.C. (June 17, 2004).

senior DOD officials, these forces performed poorly in the crises in Fallujah and southern Iraq in early April 2004.

Structure of the Iraqi Security Forces

As of May 2004, the multinational force was responsible for training, equipping, mentoring, and certifying all Iraqi security forces, such as the Iraqi Armed Forces and the Iraqi police. These Iraqi security forces have different missions and controlling authority, as detailed in table VI.1.

Table VI.1: Controlling Authority and Mission of Iraqi Security Forces

Ministry	Security force	Mission
Defense	**Iraqi Armed Forces regular army, other services**[a]	Will provide the military defense of Iraq when fully operational, including defense of the national territory and protection and security of critical installations, facilities, infrastructure, lines of communication and supply, and population.
	Iraqi Civil Defense Corps	Perform security and emergency service that directly supports coalition operations to provide security and stability. Complements the police force but designed to perform operations that exceed the capacity of the police.
Interior	**Iraqi Police Service**	Provide primary civil law enforcement for public safety, security, and order.
	Department of Border Enforcement	Monitor and control the movement of persons and goods to, from, and across the borders of Iraq. Includes Iraqi Border Police charged with border and customs enforcement and immigration.
	Facilities Protection Service	Guard and secure individual ministry and municipal facilities against vandalism and theft. These guards are hired and equipped by individual ministries and can vary greatly in capability.

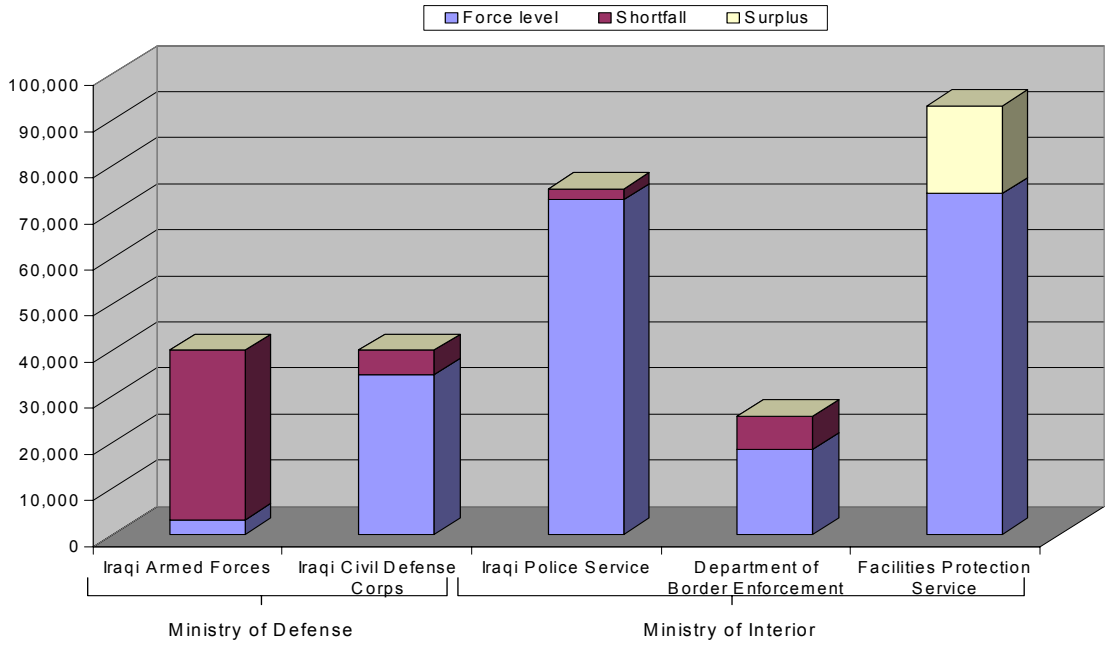
Sources: DOD status reports; CPA Orders 22, 26, 27, 28, 67, 73.

[a]According to a CPA official, these forces include units of the Iraqi Army, Iraqi Naval Infantry, Iraqi Army Aviation, Iraqi Coastal Defense Force, an Iraqi counterterrorism force, and associated headquarters.

U.N. Security Council Resolution 1546 states that after the transfer of power, Iraqi security forces would fall under the command of appropriate Iraqi ministers, and welcomed the continued development of a security partnership between the sovereign government of Iraq and the multinational force. According to an annex to the resolution, the Iraqi Armed Forces will be responsible to the Chief of Staff and Minister of Defense, while the other security forces will report to the Ministry of the Interior or other government ministers. The resolution states that the government of Iraq has the authority to commit Iraqi security forces to engage in operations with the multinational force. According to the resolution, the multinational force and Iraqi government are developing various coordination mechanisms to achieve unity of command of military operations when Iraqi security forces operate with the multinational force.

The total number of Iraqi security forces as of March 26, 2004, just prior to the insurgent activities of early April, was 203,000—approximately 86 percent of the goal set by the multinational force.[3] Of these forces, the Iraqi Armed Forces is the only force specifically trained and equipped for the defense of Iraqi territory and population. However, in March 2004 this force experienced the greatest shortfall in personnel, with only 8 percent of the troops needed. (See figure VI.1 for a breakdown of the numbers for each component and its goals.)

Figure VI.1: Iraqi Security Force Levels, as of March 2004



Source: DOD updates.

Although the other Iraqi security forces existed in greater numbers, they were not intended to fight a pitched battle against well-armed insurgents. Iraqi police officers are tasked solely to uphold general law and order through such activities as performing criminal investigations, arresting suspects, and questioning witnesses. Iraqi Civil Defense Corps soldiers are trained for constabulary duties, such as setting up traffic control checkpoints, patrolling and cordoning off streets, performing crowd control, providing convoy security, and other civil functions. Members of the Facilities Protection Service are trained to guard Iraqi ministry buildings and other fixed sites. According to CPA officials, they are effective

[3]According to DOD updates, as of June 18, 2004, Iraqi Security Forces totaled about 219,000 personnel, including approximately 84,000 police officers, 18,000 Department of Border Enforcement staff, 7,000 Iraqi Armed Forces, 36,000 Iraqi Civil Defense Corps, and 74,000 Facilities Protection Service personnel.

exclusively in locations already controlled by local military and law enforcement personnel. For example, according to a CPA official, Facilities Protection Service guards at a fixed site would be overrun by an enemy force that contained more than 10 to 20 insurgents, or one that had numerous heavy weapons, without prompt help from the multinational force.

Training and Equipping[4] Iraqi Security Forces Had Gaps

The multinational force and CPA had problems training and equipping the Iraqi Police Service and the Iraqi Civil Defense Corps in late March 2004. While some police training occurred at academies in Jordan and Baghdad, according to an official from the State Department Bureau of International Narcotics and Law Enforcement (State/INL), the prevailing security situation has prevented CPA and State/INL police trainers from moving freely across the country and establishing additional training facilities. As a result, multinational force commanders assumed responsibility for temporary police training in their areas of responsibility. State/INL provided the commanders with a temporary curriculum, the Transition Integration Program. The full curriculum is 108 hours long and provides basic police training in such subjects as basic human rights, firearms familiarization, patrol procedures, and search methods. According to a State Department official, the various major subordinate commanders had wide latitude in terms of training police and did not uniformly adopt the Transition Integration Program. They were free to establish their own curriculum and requirements for police, which varied in depth and scope. Training could last between 3 days and 3 weeks. According to a State/INL official, some commanders required trainees to undergo class and field training, while other commanders only required officers to wear a uniform.

According to a multinational force interim assessment from May 2004, the Iraq Civil Defense Corps also lacked proper training. It stated that investment into training the Iraqi Civil Defense Corps units varied among the multinational divisions and that the units in the western and center-south major subordinate commands in particular were the least prepared for combat. Furthermore, the training was not sufficient for high-intensity tasks. One CPA official agreed with this, stating that the training for the Iraqi Civil Defense Corps did not prepare it to fight against well-armed insurgents with mortars and rocket-propelled grenades, for example. The assessment also noted that the Iraqi Civil Defense Corps units contained too many inexperienced officers and soldiers.

[4]The performance of Iraqi security forces during April 2004 indicated problems with the vetting of security force personnel. However, we were unable to assess the nature and extent of the problems in the vetting process prior to this report.

Providing equipment for Iraqi forces also posed problems. According to DOD officials, both the Iraqi Police Service and the Iraqi Civil Defense Corps were poorly equipped in late March 2004 due to significant delays for provisioning all Iraqi security forces. According to CPA, these delays were related to several factors, including delays in contractor delivery and performance, delays in allocating and releasing the funding, and a shortage of experienced contracting officials in Baghdad.

The Iraqi Police Service was beset by continued delays in equipment provisioning and a lack of awareness of equipment, funding, and contracting status. According to data from the CPA's Provost Marshal's Office, as of March 28, 2004, the Iraqi Police Service was operating with 41 percent of its required patrol vehicles, 63 percent of its required uniforms, 43 percent of its required pistols, 21 percent of its required hand radios, 7 percent of its required vehicle radios, and 9 percent of its required protective vests.

In March 2004, equipment provisioning for Iraqi Civil Defense Corps was months behind schedule. According to a CPA official, no Iraqi Civil Defense Corps units possessed body armor, and many were using Saddam-era helmets for protection. According to a multinational force planning document, as of April 23, 2004, units were still awaiting the delivery of uniforms, helmets, body armor, vehicles, radios, AK-47 rifles, RPK machine guns, ammunition, and night vision equipment. A CPA official stated that most, if not all, of this equipment is currently flowing into the region. A multinational force assessment noted that Iraqis within the Iraqi Civil Defense Corps felt the multinational force never took them seriously, as exhibited by what they perceived as the broken promises and the lack of trust of the multinational force.

Iraqi Security Forces Performed Poorly in April 2004

According to the President, senior DOD officials, and multinational force commanders, Iraqi security forces responded poorly to a series of anti-coalition attacks in April 2004. In western and central Iraq, insurgents attacked the multinational force in Fallujah, Baghdad, Ar Ramadi, Samarra, and Tikrit, while a radical Shi'a militia launched operations to dislodge multinational forces and occupy cities from Baghdad to Basra in the south. In particular, units of the Iraqi Army, Iraqi Police Service, and the Iraqi Civil Defense Corps refused to engage the enemy.

According to DOD officials, the 2nd Battalion of the Iraqi Armed Forces refused to engage insurgents and support the 1st Marine Expeditionary Force in Fallujah. One problem cited included the belief of the soldiers, reinforced by briefings during their training, that they would never be used as an internal security force. Weak battalion leadership and insufficient or poor equipment were also mentioned as contributing factors.

According to a CPA official, Iraqi police forces in Fallujah, Najaf, Karbala, and Kut collapsed. The number of police officers dropped by 2,892 during the week of April 17 to 23, according to the CPA weekly assessment. These declines resulted from officers being killed in the line of duty; sent for retraining and reintegration; or removed from the Iraqi Police Service for actions supporting the insurgency. According to a CPA official and an assessment by the multinational force, the Iraqi Police Service was overwhelmed due to disorganization, insufficient training and equipment, and weak mentoring. However, CPA also said the police forces are civil law enforcement units and are not intended to withstand guerilla attacks. Nonetheless, in other locations they stood up to the attacks.

Iraqi Civil Defense Corps units also collapsed during April, with soldiers staying home, declaring a neutral stance, or resigning throughout central and western Iraq. According to the multinational force interim assessment, desertion was most prevalent between April 2 and April 16. During this time, up to 12,000 Iraqi Civil Defense Corps soldiers did not show up for duty. Table VI.2 shows the decrease in the corps during this time.

Table VI.2: Iraqi Civil Defense Corps Desertion from April 2 to April 16

Location	Staffing decrease	Responsible major subordinate command
Northeastern Iraq, including the cities of Baqubah and Tikrit	About 9,100 to about 6,100, or 30 percent	1st Infantry Division
Baghdad and surrounding area	About 6,200 to about 3,200, or 49 percent	1st Cavalry Division
Central-southern Iraq, including Karbala, An Najaf, and Al Kut	About 3,500 to about 2,500, or 30 percent	Multinational Division-Center South
Western Iraq, including Fallujah	About 5,600 to about 1,000, or 82 percent	1st Marine Expeditionary Force

Source: DOD.

Note: Derived from a DOD briefing and GAO analysis of a multinational force assessment.

The assessment also found that Iraqi Civil Defense Corps units were not sufficiently equipped or trained for high-intensity tasks, such as engaging large numbers of insurgents. Furthermore, lack of equipment and poor training resulted in general fear and disillusionment among personnel. Additionally, better-equipped and better-trained battalions in northern and southern Iraq held together during the crises of mid-April, although they did not face the same level of threat. Iraqi Civil Defense Corps soldiers were also susceptible to intimidation or sympathy for anti-coalition fighters. Finally, soldiers were less likely to carry out their duty when their home township was under insurgent pressure, leading to the collective desertion of units from the troubled townships.

Multinational Force's Response

The multinational force is taking steps to assess and respond to the various problems of the Iraqi security forces and is considering how these forces

can provide security during Iraq's upcoming election process. As of late May 2004, a new team of senior military officers was assessing every unit in the Iraqi security forces. This team will oversee the accelerated training of Iraqi soldiers, police, and other security personnel.

In April 2004, the multinational force began a new reconstitution program for police officers who had deserted in Najaf and Karbala and scheduled senior leadership and additional specialized courses for the end of May. In addition, it planned to begin implementing its equipment distribution plan, define the equipment requirements for the entire Iraqi Police Service and the Department of Border Enforcement, and better inform major subordinate commands about which equipment they would receive and when. Further, the multinational force planned to start institutionalizing a monthly report and certification plan for police stations.

According to a Department of Justice (DOJ) official, in an effort to support the multinational force training program for the Iraqi Police Service, DOJ and its components have developed a number of specialty courses designed to transition the fundamentals of basic training into operational and investigative capacity. The specialty courses are designed to build investigative directorates in the areas of intelligence analysis, counterterrorism, organized crime, basic criminal investigation, post-blast investigations, and fingerprinting. Teams of personnel and experienced contractors from many DOJ components are currently deployed or are preparing to deploy to provide training in support of this initiative.

According to an implementation order published in April 2004,[5] the multinational force is pursuing multiple courses of action to rebuild the Iraqi Civil Defense Corps. It will also develop and rebuild battalions with new equipment scheduled to arrive throughout May 2004. However, a CPA official with access to CPA contracting information stated that Iraqi Civil Defense Corps equipment would probably not make it to Iraq until June or possibly July 2004. The multinational force will also review the criteria for recruitment and possibly change recruiting practices to stop commissioning entire battalions from the same area. The multinational force also plans to ease de-Baathification standards and invite experienced and capable former soldiers and officers to join the Iraqi Civil Defense Corps. The multinational force expects some 4,000 to 5,000 Sunni to be incorporated into the Iraqi Civil Defense Corps in this way. The training program will begin concentrating on developing and mentoring leaders at all levels of the Iraqi Civil Defense Corps. Furthermore, all major subordinate commands will permanently embed training teams within Iraqi Civil Defense Corps battalions. These teams will perform refresher training and mentoring, and provide direction until battalion leadership is fully developed and capable of assuming command.

[5] FRAGO 689 to CJTF-7 OPORD 04-01.

Given the poor performance of the Iraqi security forces during April 2004, it is unclear what level of security they will be able to provide during the period leading up to Iraq's national elections, which are currently scheduled to be held by the end of January 2005. As of mid-April 2004, the multinational force was considering what sort of security and other support it would provide during the election process. According to a planning document, the extent of this support will depend on the ability of the Iraqis, international organizations, and contractors to provide for security and other support tasks. The document stated that the multinational force expected some areas to be under the local control of the Iraqi security forces by the time elections take place. The document did not acknowledge, however, the poor performance of Iraqi security forces during early April 2004.

Conclusion

Effective Iraqi security forces are critical for transitioning security responsibilities to Iraq. However, Iraqi security forces proved unready to take over security responsibilities from the multinational force, as demonstrated by their collapse during April 2004. Of these forces, only the Iraqi Armed Forces are specifically mandated for the military defense of Iraq, while the others are intended exclusively for civil law enforcement and protection duties. The multinational force identified problems in the training and equipping of the Iraqi forces as reasons for poor performance. Although the multinational force is beginning to address these problems, it is unclear what impact April's security collapse will have on the plans for transitioning Iraq's security to Iraqi security forces or the extent to which these forces will be capable of providing security during the Iraqi election process. What is clear, however, is that the development of effective Iraqi security forces will continue after the transfer of power to an interim Iraqi government.

Oversight Questions

1. How will the Iraqi security forces coordinate with the multinational force after the transfer of power, and how will they resolve potentially differing views on security issues? What arrangements have been made to facilitate coordination between the multinational force and the interim Iraqi government?
2. What kind of provisioning process will be used to equip the Iraqi security forces after the transfer of power? Will this be administered by the Ministries of Defense and Interior, the multinational force, or another body?
3. What level of support does the multinational force expect Iraqi security forces to provide during Iraq's upcoming election process, and what options and contingency plans are being explored?

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VII. Security

Transitioning and Reintegrating Iraq's Militias

Issue

A large but unknown number of militias[1] are operating outside the control of the central government in Iraq. Some of these militias have taken hostile action against the coalition and Iraqi security forces, while others have remained neutral or are participating in Iraq's political transition. In a February 2004 report, the United Nations warned that the existence of militias—especially those connected with political movements—could be a source of coercion and intimidation that would undermine the political credibility of Iraq's upcoming elections, which are currently scheduled to be held by the end of January 2005.

In late May 2004, the Coalition Provisional Authority (CPA) developed a transition and reintegration strategy for disbanding or controlling these militias. CPA Order 91, issued in early June 2004, is intended to provide legal authority for implementing the transition and reintegration process and declares militias outside of central government control, declaring them illegal except as provided by the order and law. This enclosure provides information on (1) the CPA's transition and reintegration strategy for militias and (2) the status of implementing the transition and reintegration process.

Results in Brief

The CPA's transition and reintegration strategy contains three components or tracks for disbanding or controlling militias operating outside the control of Iraq's central government. As outlined in CPA documents and Order 91, the strategy calls for (1) recruiting militia members into officially recognized Iraqi security forces, (2) retiring some militia members with veterans' benefits, and (3) reintegrating others into Iraq's civil society and economy through education, training, and job placement. On June 5, 2004,

[1]This enclosure uses the term militias to include military or paramilitary forces that are not part of the Iraqi Armed Forces or other Iraqi security forces established pursuant to CPA Orders, Regulations and Memoranda, or pursuant to Iraqi federal law and the Law of Administration for the State of Iraq for the Transitional Period. CPA Order 91 refers to the military forces of the Kurdistan Democratic Party and the Patriotic Union of Kurdistan as armed forces rather than militias.

the CPA announced that nine parties that maintain militias had agreed to develop and implement transition and reintegration plans. However, key elements of the CPA's transition and reintegration process remain to be finalized.

Transition and Reintegration Strategy Has Three Components

The first track of the transition and reintegration strategy focuses on recruiting militia leadership and members to transition to the Iraqi Armed Forces or other government security forces. To aid in recruiting militia leadership, the strategy calls for providing major groups with a sufficient number of slots in the security forces to reduce the perceived threat from the central government and provide local leaders with some control over local security. The strategy anticipates that economic incentives will aid in recruiting individual militia members, noting that the security services provide one of the few current opportunities for paying jobs in Iraq. However, the strategy cautions against legitimizing militia units by moving them into security forces. In this regard, the strategy calls for ensuring that former militia members (1) are paid by the central government, (2) rely on central government systems for advancement and retirement, and (3) develop as members of a professional force. Moreover, the strategy says it is critical to ensure that the chain of command for these security forces is not the same as the chain of command for the former resistance forces. According to the strategy, the transfer of loyalty to a central government that these arrangements are intended to support may take quite some time.

The second track of the transition and reintegration strategy addresses retirement of militia members that were former members of resistance forces. The strategy bases eligibility for veterans' status on individuals' service in these resistance groups and proposes that qualified individuals would receive the opportunity to retire with the same pensions and benefits they would have received had they served in the Iraqi Armed Forces. According to the strategy, the leadership of the former resistance forces will provide service records for these individuals and the Iraqi Veterans Agency[2] will verify them. However, the strategy acknowledges that it is unlikely that most militias kept good records and that militia leaders would willingly share them.

The third track of the strategy is to offer a reintegration program to militia members who do not transition to the Iraqi Armed Forces or other government security services or do not qualify for retirement. This reintegration program would be designed to help these members assimilate

[2]The Iraqi Veterans Agency functions as a bureau under the administration and direction of the Ministry of Defense. It is responsible for managing all aspects of veterans' issues, coordinating provision of support from other agencies to veterans, and directing the veterans' stipend program.

into Iraq's civil society and economy. According to CPA Order 91, the program could include skills screening, education benefits, job training, job placement, and a limited stipend program. The strategy states that the Iraqi Veterans Agency, in collaboration with the Ministry of Labor and Social Affairs, other ministries, and the public health system, will establish a program to accomplish the following:

- screen and register all eligible militia members to determine their skills and match them with job training and placement opportunities;
- provide medical screening and determination of needs;
- identify skills and aptitude for training and job placement;
- provide education, job training, and placement if needed;
- provide a limited stipend program to get militia members through retraining; and
- develop a tracking mechanism tied to the provision of benefits.

The strategy states that a regional approach to program implementation will be necessary because of the great differences in cultures, outlook, and expectations in Iraq. The strategy also recommends planning and executing reintegration efforts in conjunction with local militia leaders to defuse their suspicions and ensure that programs run smoothly.

According to a CPA official, the multinational force is developing a program similar to the transition and reintegration strategy for illegal militias currently fighting the coalition and the new Iraqi government that decide to lay down their arms. Under CPA Order 91, participation in the transition and reintegration strategy is limited to militias identified by the CPA or the Transition and Reintegration Implementation Committee as participating in the political process.

Status of Implementing the Transition and Reintegration Process

As of June 2004, the CPA has been successful in reaching an agreement with nine political parties on the transition and reintegration strategy. The CPA estimates that about 90 percent of the 100,000 militia members will participate in the transition by the end of January 2005. However, while the militias have agreed to transition, they may still operate under the provisions set forth in CPA Order 91 as "Residual Elements," which exempts militia members from an illegal status while following the transition and reintegration plan. Militias that continue to conduct hostile operations

against coalition forces rather than taking part in the transition and reintegration process are deemed illegal and will be subject to penalties.

Some Militias Have Accepted Transition Plans

In early June 2004, the CPA announced the successful completion of negotiations with nine major political parties[3] to bring the militias under their authority under the transition and reintegration process. The CPA reported that these parties had accepted detailed plans, timetables, and terms for the complete transition and reintegration of the armed groups under their authority. However, the CPA transition and reintegration strategy noted that Iraq's security situation must be stable and the political situation must have progressed in such a way that political and militia leaders willingly follow through on their commitments to disband as scheduled. The Transition and Reintegration Implementation Committee established by CPA Order 91 may revise individual transition and reintegration plans, although such revisions are limited to changes in transition and reintegration schedules.

The CPA reported that the June 2004 agreement with the nine major political parities covered about 100,000 former resistance fighters[4] and estimated that about 90 percent of these individuals would complete the transition and reintegration process by January 2005, and that all would complete the process by October 2005.[5] The CPA also estimated that about 60 percent of these militia members would transition into Iraqi security services—such as the Iraqi Armed Forces, Iraqi Police Service, or the Internal Security Forces of the Kurdistan Regional Government[6]—and that the remainder would retire or find civilian employment. The CPA stated that the militia members would transition into Iraqi security forces individually because no militia had been permitted to transfer units into any branch of the Iraqi security forces.

[3]The parties are the Kurdistan Democratic Party, Patriotic Union of Kurdistan, Iraqi Islamic Party, Supreme Counsel of the Islamic Revolution in Iraq/Badr Organization, Iraqi National Accord, Iraqi National Congress, Iraqi Hezbollah, Iraqi Communist Party, and Da'wa.

[4]As of May 2004, the 3 largest militias accounted for about 88,000 active fighters, according to CPA—about 41,000 in the Kurdistan Democratic Party militia; 31,000 in the Patriotic Union of Kurdistan militia; and 16,500 for the Badr Corps.

[5]Iraq's transitional administrative law states that (1) elections for a transitional government shall take place by January 31, 2005; (2) the National Assembly shall write a draft permanent constitution by August 15, 2005; and (3) the draft permanent constitution shall be presented to the Iraqi people for approval in a general referendum to be held by October 15, 2005.

[6]The transitional law states that the Kurdistan Regional Government will retain regional control over the police forces and internal security in the Kurdistan region.

Under CPA Order 91, the militias of the nine parties that have agreed to transition and reintegration plans can continue limited operations. The order designates militias operating under approved transition and integration plans as "residual elements" and grants them and their members a limited exception to the prohibition against militias while drawing down during the transition and reintegration process. CPA Order 91 permits these residual elements to perform security functions only with the advanced authorization of the Ministry of Interior and the multinational force and prohibits them from recruiting new members or adding weapons. According to a CPA document, to prevent the perception or occurrence of coercion, the order bans these militias from endorsing, financing, or campaigning for candidates for political office. Residual elements that fail to comply with their transition and integration plans and conditions outlined in CPA Order 91 will lose their status as residual elements and be considered illegal militias.

In announcing the June 2004 agreement, the Prime Minister of Iraq's interim government warned that those that chose violence and lawlessness over transition and reintegration would be dealt with harshly. According to a CPA document, political parties that support illegal militias and their leaders will be subject to penalties as defined in the forthcoming CPA order on electoral law. Moreover, under CPA Order 91, former members of illegal militias are barred from holding political office for 3 years after ceasing to be a member of an illegal militia.

Not all militias operating in Iraq had agreed to participate in the transition and reintegration process. On June 5, 2004, the CPA reported that it had not negotiated agreement with several smaller militias due to the security situation and limited resources. In late May 2004, a CPA official told us that some militias had not been contacted because they were small, difficult to contact, or politically less important. Some militias have decided to continue hostile operations against the coalition rather than take part in the transition and reintegration process.

Oversight and Enforcement Mechanisms

CPA Order 91 established the Transition and Reintegration Implementation Committee to exercise oversight of the transition and reintegration process and to take such disciplinary or other action as may be necessary upon a determination that a residual element militia is illegal. According to the order, the committee is to be chaired by the Minister of Interior and will report to the Ministerial Committee for National Security. In addition to the Minister of Interior, the committee is to include permanent representatives from the Ministries of Defense, Justice, Foreign Affairs, Finance, Labor and Social Affairs, and Education, as well as the Iraqi Veterans Agency. According to the order, the committee chair may invite the commander or

other representatives of the multinational force to attend and participate in committee meetings.

In May 2004, the CPA estimated that implementing the transition and reintegration strategy would require little separate funding—a total of about $14.3 million—because it was designed to leverage existing programs to the greatest extent possible. This estimate is based on the following three assumptions:

- Existing programs would pay the cost of screening militia members entering Iraqi security and the transition and reintegration program would only need an additional $1.5 million to screen those accepting pensions or entering job training and placement programs.
- An additional $3.75 million would be needed to fund former militia seeking jobs under an existing $180 million job training program run by the Ministry of Labor and Social Affairs that contained a veterans' preference.
- An additional $9 million would be needed to fund retirement pensions for the number of currently active militia members expected to retire.

The transition and reintegration strategy stated that successfully leveraging these and other programs to assist former militia members would depend on the active development of opportunities and coordination on the part of the office that directs the reintegration efforts to be managed by the Veterans Agency. The strategy noted that the schedules for drawing down militias would depend on the ability of numerous programs to absorb militia members. However, on June 10, 2004, a CPA official told us that some of these programs existed, while others were planned but not yet fully operational. For example, according to this official, many of the sites for the job-training program run by the Ministry of Labor and Social Affairs were shut down when the security situation deteriorated in April and May 2004.

Under CPA Order 91, an illegal militia is subject to immediate confiscation of all weapons and property through measures determined by the Transition and Reintegration Implementation Committee in coordination with the Ministry of the Interior and the commander of the multinational force. The order also states that (1) an illegal militia will be subject to any actions the committee decides are necessary for the safety and security of the Iraqi people and (2) its members will be subject to criminal prosecution in accordance with the laws of Iraq.

CPA Order 91 states that one of the committee's functions is to coordinate with the commander of the multinational force on Iraqi policy, decisions, and determinations that have security implications; however, it does not

specify which entity—the Iraqi security forces or the multinational force—is responsible for taking action against illegal militias if the committee deems military action to be necessary. According to U.N. Security Council resolution 1546, dated June 8, 2004, the multinational force and the Iraqi interim government were putting in place arrangements to establish a security partnership to ensure coordination between the two. The resolution states that the multinational force will have the authority to take all necessary measures to contribute to the maintenance of security and stability in Iraq in accordance with the letters annexed to the resolution. In those letters, the Secretary of State and Iraq's Prime Minister stated that the multinational force will coordinate with Iraqi security forces commanders and civilian leadership at all levels—national, regional, and local—to achieve unity of command in joint military operations.

Conclusion



The CPA in early June 2004 had reached agreement with nine parties to disband their militias, but certain elements of the broader transition and reintegration process remain to be finalized. Although the order calls for the Transition and Reintegration Implementation Committee to coordinate with the commander of the multinational force on Iraqi policy, decisions, and determinations that have security implications, it does not specify which entity—whether Iraqi security forces or the multinational force—is responsible for taking action against illegal militias if the committee deems military action to be necessary. Moreover, the transition and reintegration program is relying on numerous other programs to provide services for militia members who are participating in the program. As of late May 2004, some of these programs were not fully operational.

Oversight Questions



1. What progress has been made in disbanding militias that have agreed to a transition and reintegration plan, and what options and contingency plans are being explored if progress is unsatisfactory?

2. What is the status of efforts to develop a more comprehensive strategy for disbanding Iraq's militias?

3. What progress is being made in encouraging other Iraqi militias to agree to a transition and reintegration plan? If a hostile militia agrees to disband, how would the timetable, monitoring, and enforcement of that militia's transition and reintegration process differ from those for a non-hostile militia?

4. What will be the roles and responsibilities of the multinational force and the Iraq interim government in enforcing provisions of CPA Order 91 that guide the operations of militias as they disband?

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VIII. Governance

Iraq's Federal Government

Issue

The CPA transferred power to a sovereign Iraqi interim government on June 28, 2004. Crucial to the success of the transfer of power is the continued functioning and reform of Iraq's national ministries and local government. According to CPA, under the former regime, national ministries were responsible for providing basic services to all Iraqis but were inefficient and corrupt. Enforcement of anti-corruption regulations was arbitrary and intermittent. Moreover, governing authority was centralized at the national level and subnational governing institutions did not exist. The U.S.-led coalition is helping to rebuild and reform the national ministries and establish and train subnational governing bodies. As of June 2004, about $490 million had been obligated for governance activities, such as support for the transition.[1] In this enclosure, we describe (1) the operation of Iraq's national ministries and U.S. assistance to them and (2) Iraq's subnational government bodies and U.S. efforts to establish them.

Results in Brief

Iraqis have taken control of government institutions at the national and subnational levels with U.S. and CPA assistance, according to U.S. officials. National ministries are providing services to citizens even as reforms are introduced, facilities rebuilt, and staffs trained. However, the security situation hampers the ability of the ministries to provide needed services to Iraqis and maintain daily operations. For example, Iraqi hospitals and infrastructure installations continue to be attacked by insurgents. With U.S. assistance, governorate, municipal, and local government bodies are appearing for the first time and are representing citizens and responding to their needs. However, security impedes public participation at the local level. In addition, the former regime was highly centralized and left Iraq with few government institutions at the local level and none that represented citizens, according to U.S. officials. These are in the process of being developed.

[1]These funds were from U.S. 2003 and 2004 appropriations, the Development Fund for Iraq, and other sources.

Iraq's National Ministries Are Managing Government Operations with Coalition Support

Iraq's national ministries provide many fundamental services to Iraqi citizens, including health care and education, and are operating under Iraqi control with limited input from U.S. advisors. Progress has been made in rehabilitating ministry facilities and management capabilities, but the security situation is impacting the ability of the ministries to carry out their daily functions. U.S. assistance to the national ministries has focused on reconstructing ministry buildings; providing leadership, training, and advice in management; and establishing a framework of regulations and commissions in which ministries may continue to operate after the transfer of power.

Iraq's National Ministries Provide Services, but the Security Situation Hinders Efforts

According to CPA, Iraq's 26 national ministries operate under Iraqi authority and provide services to Iraqi citizens such as health care, water and electricity, education, and security. For example, Iraq's Ministry of Health manages all public health services throughout the country, as well as pharmaceutical purchases and distribution. Ministry staff currently operate the country's 240 hospitals and more than 1,200 primary health care centers. Similarly, the Ministry of Education has more than 300,000 employees throughout Iraq, including teachers. According to a CPA official, the Ministry of Education is responsible for educating about 5.5 million primary and secondary school children. Iraq's Ministry of Finance is responsible for paying Iraq's 1.8 million pensioners and about 670,000 state employees. It also developed the 2005 national budget and is responsible for managing Iraq's debt, establishing economic policy, and collecting taxes and customs revenues. Table VIII.1 lists Iraq's ministries, their estimated budgets, estimated number of staff, and projected number of U.S. and coalition senior advisors after the transfer of power.

Table VIII.1: Estimated Budget and Staffing of Iraq's National Ministries (2004)

Ministry	2004 budget estimates (millions of dollars)	2004 estimated staff[a]	Projected coalition advisors after June 28, 2004
Agriculture	35.5	8,000	4
Communications	6.2	200	18
Construction and Housing	170.2	16,000	6
Culture	9.2	3,000	4
Defense	b	b	b
Displacement and Migration	1.6	Less than 100	10
Education	543.9	325,000	0
Electricity	1.5	1,000	9
Environment	1.6	Less than 100	3
Finance	10544.5	7,000	11
Foreign Affairs	44.4	1,000	0
Health	947.0	105,000	0
Higher Education	122.1	50,000	2
Human rights	1.6	Less than 100	2
Industry and Minerals	8.0	1,000	5
Interior	124.9	65,000	27
Justice	138.6	21,000	5
Labor and Social Affairs	34.9	5,000	4
Municipalities and Public Works	206.0	23,000	4
Oil	1.8	1,000	13
Planning	45.0	1,000	8
Science and Technology	24.3	10,000	3
Trade	10.2	1,000	6
Transport	84.8	2,000	14
Water Resources	145.0	7,000	3
Youth and Sport	14.9	2,000	5

Source: GAO analysis of 2004 Iraq Budget and CPA documents.

[a]The number of staff is an estimate for 2004 and does not include staff who work for state-owned enterprises.

[b]The Ministry of Defense was established by CPA Order 67 in March 2004 and, according to CPA officials, is in the process of staffing and developing a budget.

The security situation in Iraq has presented a challenge to the ministries in their efforts to deliver services and manage internal operations. Attacks and threats have been made on government officials, ministry facilities, and infrastructure installations such as power lines and oil pipelines. For example, in May 2004, the rotating president of the Iraq Governing Council was killed by a car bomb in Baghdad. In June 2004, a deputy minister of foreign affairs and a senior official from the Ministry of Education were killed in separate attacks. Other government officials continue to receive threats on their lives. The Ministry of Oil building in Baghdad has been attacked several times, including in March 2004 when a rocket was fired on the area just outside the ministry. U.S. Agency for International

Development reports state that high-profile entities, including ministry facilities, are expected to be targets of terrorist attacks. Attacks on infrastructure also continue to impact government operations. CPA stated that operations at the Ministry of Oil are constantly being changed due to attacks on pipelines and infrastructure. In other incidences, hospitals and railroad infrastructure have been attacked. According to a CPA report, security problems have hampered the distribution of wheat from delivery ports to facilities throughout Iraq.

To transition full control of ministries back to Iraqis before the transfer of power, CPA introduced a "graduation" program. After graduation, Iraqi officials have full authority for making decisions. According to CPA officials, CPA established four criteria for ministry graduation. To graduate, each ministry must have an interim minister, a budget, an inspector general's office, and its own facilities. As of early June 2004, 12 ministries had graduated, beginning with the Ministry of Health in March 2004. According to U.S. officials, all remaining ministries would be under Iraqi control by the time power is transferred to the interim government, regardless of whether they have met the graduation criteria.

U.S. Assistance to National Ministries

U.S. assistance has focused on restoring facilities, enhancing ministries' capacity to function as government agencies, and providing a legal framework of CPA orders for continuing reforms. According to U.S. officials, when the coalition took over the national ministries, most offices were in poor condition, having been looted or burned by outgoing government officials and members of the Ba'ath Party. Ministries also suffered from a culture of corruption fostered under the previous regime, according to CPA. For example, from 1997 through 2002, the previous regime used illicit contracting and kickback schemes to acquire an estimated $4.4 billion in illegal revenues through the U.N. Oil for Food Program.[2]

To quickly restore essential government functions, USAID implemented its "Ministry in a Box" program. Through this program, USAID provided a standard package to the ministries, including the furniture, equipment, and materials necessary for 100 ministry employees to resume work. Substantial facilities reconstruction is still necessary, however. The coalition began reconstructing public buildings in fiscal year 2003; the United States expects to obligate almost $80 million to public building reconstruction for 2004 and more than $50 million for further rehabilitation efforts in 2005.

[2]U.S. General Accounting Office, *United Nations: Observations on the Management and Oversight of the Oil for Food Program*, GAO-04-730T (Washington, D.C.: Apr. 28, 2004).

To help reform the ministries, the CPA removed all Ba'ath party members in the top 4 of 10 party levels, which effectively removed most ministry leadership. Because most ministries had few, if any, middle managers to fill the vacant leadership positions, CPA assigned U.S. advisors from various agencies, including the Department of State and the Department of Defense, to work directly with the Iraqi interim minister appointed by the Governing Council. According to a former senior advisor, the advisors had broad managerial authority, including the authority to hire and fire ministry employees, determine ministry budgets, change ministry structures and functions, and make major policy decisions.

U.S. advisors will continue to work in most of the 26 ministries after the transfer of power, but it is unclear how much influence they will have. According to a CPA official working with the Ministry of the Interior, coalition advisors will have no authority after the transfer of power to make decisions for the ministries. Nonetheless, certain key ministries will have many U.S. advisors. For example, the Ministry of the Interior, responsible for the Iraqi Police, customs, immigration, and fire services, will have 27 U.S. advisors. The Ministry of Finance, responsible for the national budget and other financial management duties, will have 11 advisors.

CPA also promulgated orders and regulations to guide Iraq's ministries and continue reforms after the transfer of power. Since May 2003, CPA introduced orders to foster a free market economy in Iraq, provide security and stability, and combat corruption. The orders remain as laws of Iraq, but the transitional government to be elected by January 2005 has the right to amend or rescind any of them once it takes power.[3] The following paragraphs describe some of these orders.

- To foster a free market economy, some CPA orders lay out Iraq's rules for banking, trade liberalization, tax policy, and foreign investment. For example, to attract foreign investment in Iraq, CPA Order 39 on foreign investment specifies the terms and procedures that foreign investors must follow.

- CPA Order 68 establishes the Ministerial Committee for National Security to coordinate national security policy. According to the order, after the transfer of power, the committee will be led by the head of Iraq's interim government and will consist of key Iraqi ministers. The order states that the Commander of the multinational force in Iraq may be invited to attend and participate in the committee's meetings.

[3]Iraq's Transitional Administrative Law states that CPA orders remain in place until amended or rescinded by duly enacted legislation. See U.S. General Accounting Office, *Iraq's Transitional Law*, GAO-04-746R (Washington, D.C.: May 25, 2004).

- Several orders address corruption in Iraq. CPA Order 55 authorized the Governing Council to establish the Iraq Commission on Public Integrity and gives it responsibility for enforcing anti-corruption laws and public service standards. Order 57 establishes inspectors general offices in each of the ministries to conduct investigations and audits of ministry operations and expenditures. Order 87 sets Iraqi rules for public contracting and states that public contracting should meet international standards of transparency and fairness.

Iraq Is Developing Subnational Government Bodies with Coalition Assistance



With U.S. financial and technical support, Iraqis are establishing representative councils at the subnational level. In most of Iraq's 18 governorates, some councils and subnational government units monitor the delivery of public services and represent their constituents' concerns to higher levels of government. U.S. support through USAID's Local Governance Program is working to establish these subnational institutions and build governing capacity at the governorate, municipal, and local levels. Despite progress, Iraq's security situation and lack of governing capacity at the local level present challenges to continued reform.

According to U.S. officials, democratically elected councils at the governorate, municipal, and local levels of government have been established in many areas throughout Iraq and are acting as representative bodies under authorities that CPA established. According to contractors working for USAID, council members in these areas have been elected by their communities at public meetings to fulfill local needs and represent their constituents at each higher level of government. For example, the 88 elected neighborhood councils in the city of Baghdad send delegates to sit on district councils. Representatives from the 9 Baghdad district councils then meet on the Baghdad city council to preside over city business, such as the selection of the city mayor. Iraq's councils derive their legal authority from CPA Order 71, issued in April 2004. Order 71 gives governorate councils the authority to set priorities for the provinces, monitor delivery of public services, represent the concerns of their constituents, generate and collect revenues by imposing taxes or fees, and initiate and implement projects.[4]

According to Order 71, each governorate may, by majority vote, form subprovincial regional councils, municipal councils, and other relevant local councils. U.S. officials stated that in most areas such councils exist. However, the capacity and authority of the councils vary throughout the

[4]According to U.S. officials, most national ministries have offices, known as departments, in each of Iraq's 18 governorates. These departments are led by directors general and are responsible for implementing the ministry's programs at the governorate level.

country. In some areas, they are soliciting input from citizens, prioritizing community needs, and requesting grants from the government and the international community to fulfill those needs, according to U.S. officials. For example, the city of Kirkuk is purchasing additional garbage removal equipment to dispose of excess waste with a grant funded by USAID's local governance program. However, in other areas, such as the mostly rural Maysan governorate in eastern Iraq, local councils serve only as advisory bodies that present local community needs to government institutions. According to USAID, they have no political authority or explicit role in government. Local government officials throughout Iraq were training to independently manage government affairs once the transfer of power takes place.

USAID's local governance program is intended to establish and provide technical assistance to councils at the governorate, municipal, and local levels. The objectives of the program are to build the capacity of local administrators to deliver essential services, develop transparent and participatory policy processes at the local level, and develop civil society institutions that foster participation in political processes. U.S. officials have trained council members in democratic processes, as well as administrative officials in running local government offices. Training has included teaching council members how to run democratic council meetings, organize into committees, solicit input from citizens, and resolve conflicts. Assistance in developing anti-corruption procedures and in auditing has also been part of the local governance program. In addition, U.S. officials have trained governorate and local officials in developing budgets at the subnational level. U.S. officials stated that, in the past, capacity for budget preparation at the subnational level did not exist because national ministries developed budgets for their entire operation, including local departments.

Despite efforts that have been made in building government and implementing democracy programs at the subnational level, the security situation has hampered some of these efforts. For example, U.S. and Iraqi officials implementing the local governance program have had to pull staff out of certain areas and limit field visits and public appearances in other areas to ensure staff safety and avoid putting their audiences at risk. In some governorates, nongovernmental organizations implementing democracy-building programs have had all of their facilities destroyed and looted. Members of representative councils and other local government officials have also been threatened, attacked, and in some cases killed. These security threats hinder assistance efforts and require those providing assistance to adjust their operations and sometimes suspend their work.

In addition to the security situation, Iraq faces the challenge of building a decentralized democratic government structure in a country with a history of highly centralized nondemocratic government operations. Under the

previous regime, localities were not involved in government activities or decision making. This has left the country with little or no capacity at the municipal and local levels for such essential tasks as budget development and responding to community needs, according to U.S. officials.

Conclusion

According to U.S. officials, Iraq's 26 ministries are carrying out the daily responsibilities of the national government, and some are providing basic services under full Iraqi authority. However, their operations are hindered by the security situation and the country's history of corruption. CPA promulgated orders to address some of these issues. At the subnational level, representative councils are operating at the governorate, municipal, and local levels, and in some areas they operate as governing bodies. These bodies are new to the country's formerly centralized government structure, and challenges remain to building democratic government institutions, including providing a secure environment and building effective local participation in a country that was highly centralized.

Oversight Questions

1. What role will U.S. advisors play now that power has been transferred to a sovereign Iraqi government, and what is the exit strategy?

2. How fully are the Iraqi ministries implementing the anti-corruption provisions, such as those dealing with oversight and public accountability? What impact are the orders having?

3. What are the indications of the effectiveness and sustainability of U.S. and other efforts to promote democratic governance at the local level? What long-term assistance programs are the United States and others planning to follow up on the initial efforts?

4. What oversight are the United States and other donors conducting over grants and other funding going to development of local government?

5. How is the security situation affecting the capacity of the Iraqi ministries to provide services to Iraq? What specific government services are at risk, and what strategies are being put in place to mitigate the risks?

IX. Governance

Reforming Iraq's Judicial System

Issue

The rule of law in Iraq is a prerequisite for political stability, economic development, and public confidence in public institutions. Key to establishing the rule of law is reforming Iraq's judicial system so that it is fair and transparent. The legal and physical foundations of Iraq's judicial system were in disarray at the end of major hostilities in May 2003, with the majority of its courthouses damaged or destroyed, according to the U.S. Department of Justice (DOJ). Since then, the CPA undertook efforts to assess, rehabilitate, and reform the judicial system. This enclosure describes (1) the status of Iraq's judicial system, (2) coalition efforts to reform the system, and (3) challenges to establishing a fair and transparent judicial system in Iraq.

Results in Brief

The CPA began the process of establishing a functioning independent judiciary in Iraq. However, challenges such as security and training have hindered these efforts. As of June 2004, the CPA reported that courts were open but not functioning at pre-war levels, and that Iraqi judges were trying cases. CPA completed a review of all Iraqi judges and approved or rejected them, took steps to reform Iraq's legal code, and issued orders to restore judicial independence. Nonetheless, efforts to rebuild Iraq's judicial system and restore the rule of law face multiple challenges, including providing adequate security for judges and other court personnel, some of whom have been assassinated; ensuring the independence of the court system so that it operates without influence from the executive branch of the government; providing adequate training for judges and attorneys; and developing an accurate system for data collection so that court performance can be measured. U.S. officials state that rehabilitating Iraq's judicial system will take years.

Status of the Iraqi Judicial System

Various reforms have begun to improve Iraq's judiciary, including restructuring its courts, training and protecting judges, and modifying the roles and responsibilities of the Ministry of Justice.[1] Iraqi judges are currently trying cases and courts are operating, according to CPA officials and documents. The CPA reported that the Court of Cassation adjudicated approximately 4,200 appellate cases in May 2004, up from 3,000 in April 2004.[2] However, CPA officials also stated that courts were not functioning at pre-war levels. For example, by some rough measures, courts in Baghdad were functioning at about one-third of their pre-war capacity. Further, according to the former senior advisor to the Ministry of Justice, some courts hear few, if any, cases in any given month, and some judges have refused to move cases forward due to concerns for their safety. Protection for judges remains inadequate, according to this advisor, and several judges have been assassinated.

Iraq has a multitiered court system. The CPA and DOJ estimate that there are approximately 130 courthouses, 570 courts, and 710 judges in Iraq. A DOJ assessment from July 2003 identified 12 types of courts, including appellate courts, criminal courts, civil courts, and juvenile courts, among others. In addition to these courts, the former regime established Revolutionary Courts and Special Courts to handle matters related to the security of the state and official corruption. These courts, which were independent of the regular judicial system and staffed by Ba'ath party officials with no legal training, undermined the integrity of the Iraqi judicial system under the former regime. In May 2003, CPA dissolved these courts.

Since April 2003, two new courts have been established in Iraq. In June 2003, CPA established the Central Criminal Court of Iraq (CCCI) to try the most serious criminal cases. The CCCI convicted the captain of a Ukrainian ship for oil smuggling in October 2003 and the former mayor of Najaf for corruption in November 2003. Although the CPA Administrator identified the CCCI as one of his top priorities in the justice sector, difficulties with transporting the accused to court and a lack of support from the United States have limited the CCCI's caseload. The Law of Administration for the State of Iraq for the Transitional Period, or the transitional law, signed on March 8, 2004, established an additional high court in Iraq—the Federal Supreme Court. This court will have jurisdiction over cases between the transitional government and the subnational governments, and over claims that a law conflicts with the transitional law.

[1]Iraq's judiciary is based on a civil law system similar to France's. Under this system, there are no juries. Judges hear cases, determine guilt and innocence, and sentence the convicted.

[2]The Court of Cassation is Iraq's highest appellate court.

The Ministry of Justice operates independently from the judiciary and has assumed new responsibilities since May 2003. The ministry publishes the *Legal Gazette* and manages land deeds and records.[3] Its State Consultative Council provides legal advice to the executive branch and drafts and proposes revisions to legislation. In addition, CPA Order 10 vested authority over all prison facilities in the Ministry of Justice in June 2003.

Efforts to Reform the Judicial System

When the United States and its coalition partners took control of Iraq in April 2003, the Iraqi judicial system was in a state of chaos, according to a DOJ assessment. Coalition officials have undertaken several efforts to rehabilitate the Iraqi judiciary since April 2003. These efforts include:

- working to re-establish judicial independence,
- removing corrupt judges and prosecutors,
- reforming the legal code,
- reconstructing and fortifying courthouses to provide adequate security for judges and prosecutors, and
- rehabilitating prisons.

However, experience at USAID suggests that such reforms will take many years to complete.

CPA and the Iraqi Governing Council took several steps to restore the judiciary's independence. During the previous regime, the judiciary was under the control of the Minister of Justice, and the regime's Revolutionary Command Council frequently interfered with the ministry, according to DOJ. CPA Order 35, issued in September 2003 and intended to re-establish judicial independence, reinstated a Council of Judges to supervise the judicial and prosecutorial systems of Iraq. The transitional law also states that the judiciary will be independent and separate from the legislative and executive authorities, including the Ministry of Justice. CPA Memorandum 12, issued in May 2004, provided that the Council of Judges and Court of Cassation will have their own budgets and staff independent of the Ministry of Justice.

In June 2003, CPA Order 15 established a Judicial Review Committee to review the suitability of Iraqi judges and prosecutors. The committee, composed of three Iraqi members and three international members, has the authority to remove such officials from office, confirm their continued holding of office, and appoint replacements for vacated offices. The committee completed its review of all of Iraq's judges and prosecutors in early 2004. According to the committee, it reviewed approximately 870

[3]The *Legal Gazette* is the official publication for Iraqi laws, including all CPA orders and regulations. Publication of the *Gazette* resumed in June 2003.

judges and prosecutors and removed approximately one fifth of these officials. It also appointed approximately 110 new judges and prosecutors and reinstated 80 who had been removed under the former regime. According to a former member of the committee, decisions to remove judges and prosecutors were based primarily on the criteria of Ba'ath party membership, allegations of corruption, and the individual's competence and reputation.

CPA issued several other orders and memoranda to reform Iraq's legal code. For example, CPA Order 7 generally re-established the 1969 Iraqi Penal Code as the penal code of Iraq. Order 7 also prohibits torture and suspends capital punishment. CPA also worked with the Iraqi Governing Council to develop the transitional law to govern Iraq until a permanent constitution is adopted. The transitional law guarantees Iraqis several basic rights, including protecting certain rights of the accused. Specifically, it states that the accused is presumed innocent until proven guilty and has the right to remain silent. The transitional law bans the use of torture in all circumstances and protects against unlawful arrest and detention.

CPA also initiated projects to reconstruct Iraq's courthouses, the majority of which had been either destroyed or severely damaged. According to CPA, funding from the Commander's Emergency Response Program played the most significant role in refurbishing courthouses. In addition, an April 2004 report from the Office of Management and Budget indicated that $135 million had been allocated to add security and repair Iraqi courthouses in fiscal years 2004 and 2005. Some of the construction includes structural repairs such as electrical, sanitary, and civil works. However, as of February 2004, CPA staff in Baghdad stated that construction had been delayed due to difficulties with the budgeting process.

To provide security to government infrastructure, including courthouses, CPA created the Iraqi Facilities Protection Service (FPS). Since courthouse security was nonexistent before May 2003, according to a former CPA official, CPA had to provide new FPS officers with basic equipment. CPA also gave FPS advice and training on courthouse security operations through the U.S. Marshals Service. However, as recently as June 2004, courthouses were not adequately fortified to ensure the security of court personnel, according to a former CPA official.

Challenges to Establishing the Rule of Law in Iraq

Despite CPA efforts to rehabilitate and reform Iraq's judicial system, significant challenges remain. Security for court officials, while improving, continues to affect the functioning of the courts. CPA has issued orders re-establishing an independent judiciary, but questions remain about how to implement this.

The security situation in Iraq has hindered the operation of the courts due to the lack of security for judges, prosecutors, and witnesses. According to a memorandum from a former CPA senior advisor to the Ministry of Justice, security is essential to renovating court facilities. Although personal protection for judges is improving, several judges have been assassinated. In March 2004, approximately 250 judges had personal security details, but no additional judges were to receive details until June 2004. One Iraqi judge stated that he had 18 bodyguards and had survived three attempts on his life since being appointed to the CCCI. Furthermore, while a team of U.S. Marshals began establishing a witness protection program in March 2004, witness intimidation continues to be a problem, according to DOJ officials.

Because judicial independence had been completely eroded under the former regime, ensuring the independence of the judiciary is also a challenge. In addition, while CPA orders and the transitional law have established a separate and independent judiciary, some implementing issues remain. For example, it is still unclear whether prosecutorial and judicial departments will be separated. Although the July 2003 DOJ assessment recommended separating prosecutorial functions from the judiciary, DOJ officials state that the basic judicial structure will be maintained and prosecutorial functions will not be separated from the judiciary. According to CPA, Iraqi judges and prosecutors opposed the separation. Therefore, CPA officials concluded that the Iraqi people should consider such a fundamental change when drafting the constitution.

Ensuring adequate and appropriate training of judges, prosecutors, and attorneys is also a challenge. DOJ identified training at all levels as one of the strategic priorities for Iraq to pursue after the transfer of power on June 28, 2004. Attorneys from DOJ's Office of Overseas Prosecutorial Development, Assistance, and Training have trained hundreds of Iraqi judges on basic tenets of human rights, due process, and rule of law, according to DOJ officials. In addition, CPA held weekly training sessions for court-appointed defense counsel. However, a former CPA official said that CCCI officials continue to need training regarding these tenets. Another official said that, in some trials, CCCI defense attorneys asked no questions and therefore needed more training. Although USAID helped reopen the Iraqi Judicial College and is reviewing the college's curriculum to include due process, rule of law, and human rights, as of June 2004, only a quarter of Iraq's judges had received this training. In addition, a former member of the Judicial Review Committee concluded that rehabilitating

Iraq's judicial system would take years as a competent body of legal professionals is developed.

The lack of a system of data collection and measurement makes it difficult to accurately assess the functioning of the judicial system. While CPA's strategic plan included the development of quantifiable measures of effectiveness, such as the time from arrest to trial and the number of felony trials, by February 2004 no progress had been made on developing these measures. One example of a systemic approach is in DOJ's framework for overseas prosecutorial training and development. As part of the framework, an overall objective of strengthening judicial independence is identified, several subobjectives and specific tasks toward this objective are listed, and several measures of progress identified. While CPA's strategic plan included the establishment of an independent judiciary as an objective, it lists only one task related to this objective and includes no measures of progress.

Conclusion

CPA began the process of building a functioning judiciary in Iraq**.** However, establishing a fair and independent judicial system in Iraq will extend beyond the transfer of power and take many years. To accomplish this, Iraqis will confront significant challenges and require U.S. and international assistance. These include delineating the prosecutorial and judicial functions clearly; ensuring the independence of the court system so that it operates without influence from the executive branch of the government; providing adequate security for court personnel so that all cases can be handled fairly; providing adequate training for judges, attorneys, and others so they fully implement due process; and developing an accurate system of data collection so the courts know how they are performing.

Oversight Questions

1. What steps did CPA take to help ensure judicial independence after the transfer of power? What functions will the Ministry of Justice retain and acquire? What functions will the judiciary assume?

2. What are the results of U.S. efforts to help ensure adequate training for Iraqi justice personnel?

3. What are the results of U.S. efforts to help develop a data collection and analysis system for Iraqi courts? Are these efforts resulting in reliable data to reform Iraq's justice system?

X. Essential Services

Restore Iraqi Electricity Program

Issue

According to a United Nations/World Bank needs assessment[1] and discussions with several U.S. government officials, Iraq's power infrastructure had deteriorated due to years of neglect during the previous regime, destruction caused by the 1991 and 2003 conflicts, and looting during the summer of 2003. Inadequate electricity levels present public health challenges and affect Iraq's oil sector, which plays a dominant role in its economy. The Coalition Provisional Authority (CPA) and Iraqi authorities recognized that reconstructing the power sector is critical to reviving Iraq's economy, supporting essential infrastructure, and improving daily well-being. Visible improvements in the delivery of essential services, including electricity, were also considered critical in establishing a secure, peaceful, and democratic Iraq. Accordingly, the CPA and U.S. government departments and agencies have made available about $7.7 billion to repair Iraq's power infrastructure.

This enclosure focuses on progress to date in implementing the U.S. Army Corps of Engineers' (Corps) Restore Iraqi Electricity (RIE) program, a major component of the U.S. assistance effort for the power sector funded at almost $1.4 billion. We chose this program because the first phase has been under way since September 2003, and the CPA had set project goals for the June 2004 time frame. In this enclosure, we discuss (1) the progress made under the RIE program, as well as overall progress in providing Iraq's electrical needs; (2) the effect of the security environment on the cost and pace of RIE projects; and (3) oversight of the RIE program.

Results in Brief

The CPA set a goal for Iraq of 6,000 megawatts of generating capacity by June 30, 2004, in anticipation of the higher demand for power during the summer months. As of late May 2004, the Corps expected that 59 of the 66 RIE projects expected to help meet this goal would be complete by June 30. On June 1, the daily peak generation capacity in Iraq stood at about 4,200 megawatts, an improvement over the capacity at the start of the RIE program, but still short of the CPA's goal. However, even if the 6,000-

[1]United Nations/World Bank, *Joint Iraq Needs Assessment: Electricity* (New York: October 2003).

megawatt goal is reached, it will fall short of the estimated peak summer demand of 7,000 to 8,000 megawatts. Due to several factors, including the worsening security situation and increased demand, average daily hours of electrical service in some governorates was worse at the end of May 2004 than it was prior to the war. Hours of electrical service in the country as a whole, while more equitably distributed, also did not show a marked improvement over the immediate postwar levels of May 2003 and worsened in some governorates. U.S. government reports and discussions with Corps officials indicate that a deteriorated security environment has affected the pace and cost of RIE projects. RIE contractors report numerous instances of project delays due to the difficulties in safely getting employees and materials to project sites. In addition, estimates of security-related costs reach as high as almost 18 percent of total costs for one contractor. The Corps' Transatlantic Program Center and Gulf Region Division share oversight responsibility for the RIE program. Corps staff based in the United States and Iraq and RIE contractors coordinate through weekly videoconferences to facilitate oversight. The Defense Contract Audit Agency (DCAA) also performs reviews of contractor costs and procedures. Ongoing DCAA audits have resulted in disallowing $16.5 million in costs for one subcontractor. As of May 21, 2004, documentation for $113 million in subcontractor costs was still under review or had not yet been submitted.

Background

In January 2004, the CPA approved a reconstruction plan for Iraq that set a June 1, 2004, target of 6,000 megawatts[2] of daily "peak deliverable" generating capacity.[3] In October 2003, the Iraqi Ministry of Electricity and the CPA Electricity Advisory Team published a detailed plan to increase power in 2004. These plans also included restoring hundreds of kilometers of electric transmission and distribution lines, electric power control systems, and other electric facilities. The RIE program is a major component of the strategy to reach this goal. As of late May 2004, the CPA changed the goal date for achieving the 6,000-megawatt target to June 30 instead of June 1.

About $1.38 billion has been made available for RIE projects to date. Of this amount, $756 million was allocated from the Development Fund for Iraq,[4]

[2]A megawatt is a measure of the rate at which electric energy can be transferred and is used as a measure of electric generation capacity.

[3]"Peak deliverable" generation capacity is the generation capacity that can be delivered to users given the capabilities and constraints of installed generation equipment and electric transmission and distribution facilities.

[4]The Fund is held on the books of the Central Bank of Iraq and financed from multiple sources, including oil revenues and assets of the former Iraqi regime. It is to be used for the economic reconstruction and repair of Iraq's infrastructure, among other things. Until

and the remaining $626 million was made available from funds Congress appropriated for the Iraq Relief and Reconstruction Fund.[5] The Corps' Transatlantic Program Center used $1.06 billion of this money to issue task orders to contractors for the first phase of RIE projects, known as "RIE 1," beginning in September 2003. The three largest contract obligations for this phase went to Perini Corporation ($356.5 million), Fluor Intercontinental ($335 million), and Washington Group International ($310 million).[6] According to Corps officials, as of May 5, 2004, the CPA's Program Management Office had allocated to the Corps almost $323 million for two additional RIE phases, known as "RIE 2" and "RIE 3." RIE 2 continues the efforts of RIE 1 to help achieve 6,000 megawatts of generating capacity by June 30, 2004. RIE 3 projects are not of an emergency nature but are necessary to add additional capacity to the electrical grid. Of the $1.38 billion made available for RIE projects, about $1.32 billion has been committed to contracts and task orders.

In addition to the Corps' RIE program, two other contracting efforts are currently contributing to Iraq electrical reconstruction. USAID contractor Bechtel National is undertaking electricity work as part of its two infrastructure contracts totaling $2.8 billion.[7] Also, in March 2004, the Corps, on behalf of the CPA's Program Management Office, awarded three electrical capacity contracts for a total of up to $1.5 billion, or $500 million each. The Program Management Office awarded these contracts to the same three prime contractors that received RIE 1 contracts, but these efforts are not part of the Corps' RIE program. We do not discuss the status of these efforts in this enclosure.

Despite Progress in Power Sector, CPA Did Not Meet the June 1 Goal

Power generation capacity in Iraq has generally improved since the RIE projects began in September 2003, but the progress of overall electrical reconstruction was not sufficient to meet CPA's 6,000-megawatt goal, and electrical service in some areas is worse than it was before the war.

the transfer of authority to Iraqi sovereignty, the CPA administrator managed the Fund on behalf of the Iraqi people.

[5]Congress appropriated funds to the Iraq Relief and Reconstruction Fund in the Emergency Wartime Supplemental Appropriations Act, 2003, P.L. 108-11, and the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, P.L. 108-106.

[6]In addition, about $54 million has been allocated for Corps headquarters costs and for miscellaneous projects, including police for the electricity ministry and emergency generators.

[7]This amount is the total amount of the two contracts for all Bechtel reconstruction activities in Iraq, including rehabilitating the power, water, and sanitation sectors and repairing and reconstructing ports, roads and bridges, schools, and health facilities.

According to the Corps, RIE had added 1,295 megawatts in additional capacity of its planned 1,348-megawatt contribution to the goal by the end of May 2004.[8] As of June 1, 2004, although peak capacity fluctuated during this period, Iraq's daily peak generation capacity had increased to about 4,200 megawatts, an improvement from about 3,400 on September 25, 2003—the date on which the Corps issued the first RIE task orders. However, improvements to the electrical system have had limited effect in terms of daily electrical service for the Iraqi people. The level of service in Iraq's 18 governorates, as measured in the average hours per day of electricity, has not shown substantial improvement from conditions present at the end of major combat in May 2003. The late completion of some RIE projects contributed to the CPA not meeting its goals. As of May 29, 2004, Corps reporting indicated that just over half of the RIE 1 and 2 projects would be complete by the initial CPA goal date of June 1. According to Corps data, additional projects should be complete in time to help meet the revised goal date of June 30, but 7 power generation projects were not expected to be complete by June 30.

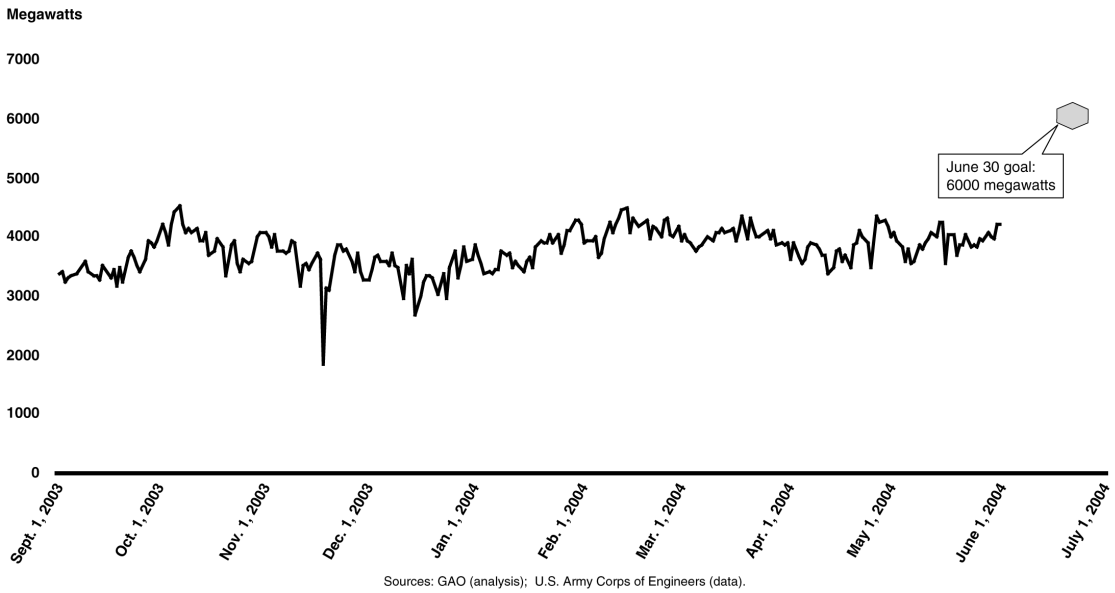
Hours of Electrical Service Generally Are Not Improved from Prewar Conditions

As of June 1, 2004, Iraqi peak distributable generation capacity had not yet been restored to the goal of 6,000 megawatts but had reached about 4,200 megawatts, a level near where it has been since January 2004 (see fig. X.1). This level was short of the 4,400-megawatt interim goal set by the CPA for October 2003 and the June goal of 6,000 megawatts. Even if met, however, the 6,000-megawatt goal will not be sufficient to meet Iraq's needs this summer. Current estimated demand for electricity in Iraq is about 6,500 to 7,000 megawatts, according to the World Bank.[9] CPA and USAID officials also stated that Iraq needs about 7,000 to 8,000 megawatts of generation capacity to meet increased peak summer demands.

[8]Not all of this additional capacity is reflected in Iraq's actual peak generation, the measure used for the CPA goal of 6,000 megawatts.

[9]*Joint Needs Assessment: Electricity*.

Figure X.1. Iraqi Peak Electric Power Generating Capacity, September 2003 through June 1, 2004

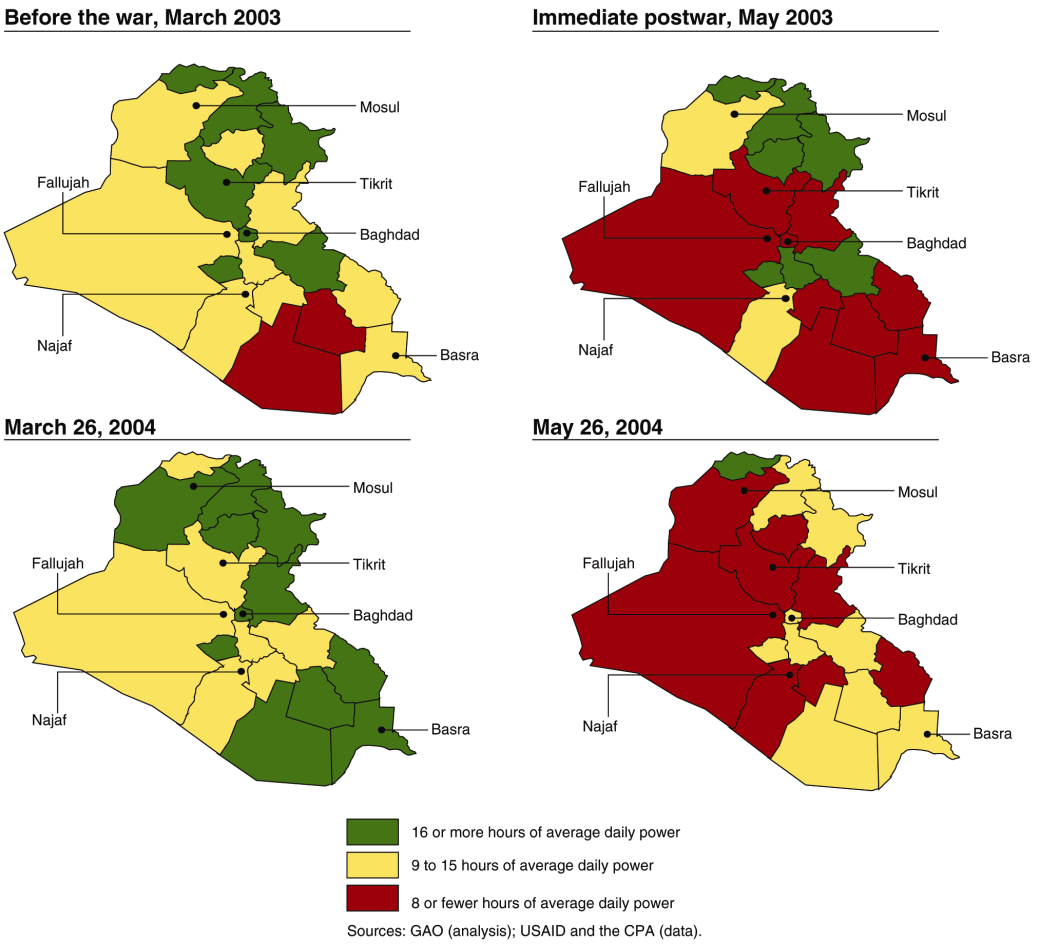


Note: The low point in November was due to a problem with the transmission line from Baiji to West Baghdad that triggered a series of failures causing plants to shut down in both the central and southern regions of Iraq.

The CPA had made some progress in restoring electricity throughout Iraq since the end of the war. As shown in figure X.2, Baghdad and large areas of southern Iraq averaged 8 or fewer hours of electricity a day following the war. As of May 2004, some of these areas were averaging between 9 and 15 hours daily. However, as of May 26, 2004, the level of service in the country as a whole was not near 24 hours a day except in the extreme north of the country.

As of May 2004, the available electrical service in Iraq's governorates, while more equitably distributed, had not improved substantially from the situation before the war. Although some improvement in service was made earlier in 2004, the situation deteriorated due to the worsening security situation and increasing demand as of May 26, 2004. At that time, 8 of Iraq's 18 governorates had electricity for an average of 8 or fewer hours a day, and 9 had electricity for between 9 and 15 hours daily (see fig. X.2). According to Corps officials, this change is partly a result of the CPA's more equitable power distribution policy. The former regime provided certain areas of the country, such as Baghdad, with greater electricity and limited power in other areas, notably the Shi'ite regions in southern Iraq.

Figure X.2. Average Daily Electrical Power Distribution by Governorate



Note: Data for 2003 are based on a survey of Iraqis countrywide in fall 2003; 2004 data are from the CPA.

Late Completion of RIE Generation Projects Contributed to the CPA Not Meeting Its June 1 Goal of 6,000 Megawatts

The CPA expected RIE 1 and 2 projects to contribute to the initial CPA goal of 6,000 megawatts of generating capacity by June 1, 2004. The overall progress of RIE 1 and 2 projects toward this goal was mixed. The majority of RIE generation projects were not completed by June 1, but all management, transmission, distribution, and control projects were completed in advance of this date. Although, according to the Corps, RIE had added 1,295 megawatts of its planned 1,348 megawatts in additional capacity by the end of May 2004, many projects are not yet complete. As of May 29, Corps data showed that only 22 of 53 RIE 1 and 2 generation projects were expected to be complete by June 1 (see table X.1). This late completion of some RIE generation projects contributed to the CPA not meeting its 6,000-megawatt goal. In all, 35 of the total 66 RIE 1 and 2

projects were expected to be complete on June 1, and 59 were expected to be complete before June 30.

Table X.1: Estimated Completion Date of RIE Projects, by Project Type

	RIE 1			RIE 2			
	By June 1	June 2-June 30	After June 30	By June 1	June 2-June 30	After June 30	TOTAL
Generation	16	7	4	6	17	3	**53**
Transmission, distribution, and controls	9	0	0	1	0	0	**10**
Management	3	0	0	0	0	0	**3**
Total	**28**	**7**	**4**	**7**	**17**	**3**	**66**
	• **28 of 39 RIE 1 projects complete by June 1** • **35 of 39 RIE 1 projects complete by June 30**			• **7 of 27 RIE 2 projects complete by June 1** • **24 of 27 RIE 2 projects complete by June 30**			

Source: GAO analysis of U.S. Army Corps of Engineers' report.

Security Environment Affects the Cost and Pace of RIE Projects

Several factors, particularly the deteriorating security environment, pose particular challenges to the Corps in managing and implementing RIE projects. According to a Corps request to the CPA for an additional $55 million from the Development Fund for Iraq, nearly all projects have exceeded targeted budget projections due to unanticipated security expenses, underestimated level of effort, and contracting challenges. Based on our review of Corps documents and contractor reports, it is clear that security costs add to the overall cost of reconstruction and that security incidents have slowed its pace. From our review of contractor reporting in April and May 2004, we have identified numerous examples of security concerns leading to problems such as project shutdowns, refusal of subcontractors to work at project sites, delays in the shipment of key materials, and the inability or unwillingness of Iraqi labor to work on projects.

Security Concerns Add to Cost and Slow Reconstruction Pace

To varying extents, RIE 1 contractors are reporting or are expected to report substantial security costs. For example, Perini estimated the total cost of security at $63.4 million through August 2004, or almost 18 percent of its $356.5 million contract, and Washington Group International's security costs were nearly $44.5 million, or 14.3 percent of its $310 million contract.[10] According to Corps officials, the variation in security costs is in part explained by differences in the nature and location of the projects

[10]These figures may change based on ongoing DCAA audit work. All costs stated here are from Corps documentation; GAO has not verified these figures.

performed by the three contractors. Fluor, for example, used the protection of the coalition's "Green Zone" in Baghdad for some functions. Security for RIE projects under these contracts extends through the construction period. At the end of construction, the Iraqi Ministry of Electricity will assume responsibility for security.

According to interviews with Corps personnel and reviews of recent contractor reports, the security situation has affected the implementation of RIE projects, particularly as violence increased during April 2004, as shown by the following examples:

- Washington International locked down its power plant construction site at Mosul for 3 days in April and at Mullah Abdullah for 5 days due to security concerns. Incidents at Mosul included ambushes, small arms and mortar fire, and snipers. On May 13, 2004, the contractor also stated it was incurring substantial costs to satisfy the security concerns of a subcontractor. Despite additional precautions, the subcontractor refused to come to the project site, and the subcontract was terminated. A Texas subcontractor will continue the work.

- At the Qudas power plant near Baghdad, Fluor reported that insurgent activities on supply routes prevented truck convoys with materials from reaching the project site. During the week of April 15, 2004, Fluor reported that its Qudas workers needed to leave at 4 p.m., instead of 6 p.m., to make it through checkpoints and arrive home before dark. This resulted in a daily loss of 2 hours of labor. During the week ending May 6, Fluor reported that attendance appeared to have returned to normal, but attendance problems reappeared during the week of May 21.

- Fluor is developing a change order request[11] for delays at the Taiji and Zaferina power plants in Baghdad and at the Nasiriyah water intake project due to the impact of civil unrest on schedule and cost. For example, Fluor evacuated its personnel from the Nasiriyah project in central Iraq during the week of April 22 but resumed work the following week. Fluor also evacuated its field personnel from the Najaf power generation project during the week of May 21 due to civil unrest and the entry of the military into Najaf.

- RIE 2 contractor CH2M Hill/Dragados/Soluziona reported during the week of April 16, 2004, that a subcontractor would not send personnel to the Haditha Dam project site, about 140 miles northwest of Baghdad, due to changing conditions and concerns with security. The Corps deferred the subcontractor's project to a later date. The same report stated that death threats had been issued against another

[11]A change order is a written order from a contracting officer making a unilateral contract modification within the general scope of the contract.

subcontractor's Iraqi personnel, who have declined to come to the site. Access from Baghdad to the site was also constrained because the road to Haditha passes through Fallujah and was under fire and inaccessible. On May 13, this contractor submitted a written request for a schedule extension due to work restrictions resulting from significant site access and security issues.

Concerns about the effect of security on the pace of reconstruction also rose to the level of the former CPA administrator. In a cable to the Departments of Defense and State and the White House on April 17, 2004, the CPA administrator observed that security is the key obstacle to reaching reconstruction objectives. Referring to the entire reconstruction program, the administrator stated that a worsened security situation would mean that projects would take longer to complete and that the kinds of projects undertaken and their costs would change to an unknown extent.

Corps and DCAA Provide Oversight



Two organizations within the Corps—the Transatlantic Program Center and the Gulf Region Division—manage and oversee the RIE program. These two organizations coordinate their efforts through joint participation in weekly teleconferences and other reporting. DCAA has also provided oversight through its audits of RIE contracts, and it has identified concerns with contractor cost estimating and purchasing systems and unsupported subcontractor costs. DCAA's efforts are ongoing but to date have resulted in disallowing $16.5 million of unsupported subcontractor costs.

Corps Gulf Region Division and Transatlantic Program Center Oversee RIE Program

The contracting, management, and oversight responsibilities for RIE are split between the Transatlantic Program Center in Winchester, Virginia, and the Gulf Region Division in Iraq. The Transatlantic Program Center managed RIE before the creation of the Gulf Region Division and continues its oversight responsibilities for RIE 1 projects, with support from Gulf Region staff. For RIE 2 and 3, the Gulf Region Division has assumed more contract administration functions that had been handled by the Transatlantic Program Center for RIE 1, particularly program and project management support. The Transatlantic Program Center, however, continues to provide support to the Gulf Region Division during solicitation and award of RIE 2 and 3 task orders.

The Gulf Region Division manages and supports RIE 2 and 3 projects from its Baghdad office and at project locations. As of May 2004, 72 civilian personnel, including one contracting officer in Baghdad, provided oversight for RIE projects within the Gulf Region Division. The division's field offices, which are located at all project sites, are responsible for monitoring

and verifying contractor performance. These offices include a quality assurance representative or construction inspector and a project engineer. The staff in these offices verify contractor reporting on project status.

Required reporting includes daily quality control reports and weekly progress reports from the prime contractors. The weekly reports include a schedule for completion of subtasks, cost reporting, an identification of construction and security issues, and completion percentages for projects. To summarize the status of RIE projects, the Gulf Region Division compiles a weekly list and provides it to the CPA, the Ministry of Electricity, and others. The division also conducts weekly contractor video teleconferences with its contractors in Iraq and their headquarters offices in the United States. In addition, Transatlantic Program Center management staff participate in weekly video teleconferences with the regional division to coordinate and maintain visibility on the projects. We participated in several of these videoconferences between the Corps and contractor staff.

DCAA Questioned Some RIE Contractor Procedures and Costs

DCAA has conducted several price proposal audits and evaluations of the three RIE 1 contractors. Initially, it found weaknesses in cost estimating and purchasing systems and unsupported subcontractor costs totaling $220 million, or almost 22 percent of the total cost of the contracts. As of May 21, 2004, $90.5 million of this amount had been supported and approved for payment by DCAA, $16.5 million had been disallowed for one subcontractor, and DCAA was reviewing revised plans for purchasing and estimating. At that time, documentation for $113 million in subcontractor costs was still under review or had not yet been submitted.

The three largest RIE 1 contracts are cost-reimbursement contracts under which the government has agreed, subject to cost ceilings, to reimburse the contractor for all reasonable and allowable costs incurred in performing the work. An award fee (profit) is also provided to the contractor. To meet urgent operational needs, as is the case in Iraq's reconstruction, agencies are permitted to authorize contractors to begin work before the key terms and conditions, including price, of the contracts or task orders have been defined and agreed upon. While this approach allows agencies to initiate needed work quickly, it also can result in potentially significant additional costs and risks for the government.[12]

[12]See U.S. General Accounting Office, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges*, GAO-04-605 (Washington, D.C.: June 1, 2004), for additional discussion of contracting for Iraq reconstruction.

Conclusion

Iraq's electricity sector deteriorated due to neglect by the prior regime, destruction caused by the 1991 and 2003 wars, and looting in the summer of 2003 following Operation Iraqi Freedom. Sufficient power is needed to help ensure economic growth, support essential infrastructure, and improve the well-being of the Iraqi people. As of late May 2004, average daily electrical service since the immediate postwar period had not significantly improved in the country as a whole and was worse in some areas. To meet anticipated summer demand, the CPA set a goal of restoring generating capacity to 6,000 megawatts by June 30. Most RIE projects designed to meet this goal are expected to be completed by at that time, but not all will be finished, and the worsening security environment has affected the pace and cost of these projects. Moreover, the anticipated peak summer demand is estimated at 7,000 to 8,000 megawatts. The possibility that electrical capacity will not meet the peak summer demand raises concerns about the ability of the coalition to support power dependent infrastructure, improve Iraq's economy, and promote stability in Iraq.

Oversight Questions

1. How are delays in electricity projects affecting the reconstruction goals of other key sectors, such as oil and water and sanitation?

2. What are the plans for meeting Iraq's future electrical needs beyond the 6,000-megawatt capacity goal following the transition to sovereignty on June 28, 2004?

3. What is the full range of factors contributing to the length of time required to meet Iraq's electrical needs?

4. What management and oversight framework has been planned for the $1.5 billion in electricity contracts let by the CPA's Program Management Office in March 2004?

5. What measures are being taken to monitor and ensure adequate maintenance and security of improved facilities?

6. How will ongoing electricity reconstruction efforts be coordinated among the U.S. government and relevant Iraqi ministries, including the Ministries of Electricity and Irrigation?[13]

7. What are the lessons learned from the management and implementation of RIE projects that can be applied to other reconstruction projects?

[13]The Ministry of Irrigation controls the quantity and timing of water moving through Iraq's dams to power plants.

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Objectives, Scope, and Methodology

As part of our broad effort to monitor Iraq reconstruction, we focused on issues associated with (1) resources, (2) security, (3) governance, and (4) essential services. We conducted our review from March through June 2004 in accordance with generally accepted government auditing standards. We did not travel to Iraq during this period due to security concerns.

Resources: Funding and Staffing

To monitor the use of resources in the reconstruction of Iraq, we focused on the sources and uses of U.S., Iraqi, and international funding. In addition, we reviewed U.S. efforts to provide staff to support the Coalition Provisional Authority (CPA) in rebuilding Iraq and the challenges faced.

U.S. agencies and the CPA provided us with electronic data files for appropriated funds, the Development Fund for Iraq (DFI), vested assets, and seized assets. These files generally included objective or project descriptions with allocated, obligated, and disbursed amounts. We assigned each of the funding line items to eight broad categories based on the descriptive information available in the data files. To assign the data to a category, we relied on project descriptions from agency and CPA data files.

In addressing the amount of U.S. funds that have been appropriated, obligated, and disbursed for the Iraq reconstruction effort, we collected funding information from the Departments of Defense, State, and the Treasury; U.S. Agency for International Development (USAID); and the CPA. Data for U.S.- appropriated funds are as of April 30, 2004, with the exception of CPA's Program Management Office data on obligations and disbursements in fiscal year 2004, which are as of May 25 and June 16, respectively. We also reviewed the public funding documents of the Office of Management and Budget and the CPA Inspector General. Although we have not audited the funding data and are not expressing our opinion on them, we discussed the sources and limitations of the data with the appropriate officials and corroborated them, when possible, with other information sources. We determined that the data were sufficiently reliable for the broad comparisons in the aggregate and the category descriptions we have made.

To identify sources and uses of Development Fund for Iraq funds, vested assets, and seized assets, we relied on funding data from the CPA. These data included DFI funds committed from July 2003 and vested assets and seized assets committed from May and June 2003 through May 6, 2004, respectively. To determine the reliability of these data, we examined the financial files and interviewed CPA officials responsible for the data. Based on these evaluations, we determined the data are sufficiently reliable for the purposes of describing the major deposits to the DFI and the allocations and disbursements by major categories.

To address international assistance for rebuilding Iraq, we collected and analyzed information provide by the State Department's Office of Iraq Economic Reconstruction.

We also collected and reviewed documents from the CPA, United Nations Development Group, and World Bank Group. To describe the activities of international donors, we relied on interviews with U.S. and CPA officials and reviewed documents pertaining to the international donor conferences. To assess the reliability of the data on the pledges and commitments made by international donors, we (1) interviewed the officials at State and the Council for International Coordination who are responsible for compiling these data based on information provided by the World Bank and U.N. Development Group, the governments of the international donors, and the Iraqi Ministry of Planning and Development Coordination and (2) performed reasonableness checks of the data against other sources of information. We determined that the data on major international pledges were sufficiently reliable for the purpose of comparing the amounts pledged by international donors. We also determined that the data on pledges made by non-US international donors at the 2003 Madrid Conference were sufficiently reliable for the purpose of describing grants and loans at the aggregate level. Further, we determined that the data on donor commitments made to the International Reconstruction Fund Facility were sufficiently reliable for the purposes of comparing committed contributions and deposits by country. Finally, we determined that the Iraqi government's estimated costs for project proposals were sufficiently reliable for the purpose of showing what the Iraqi government had requested in 2004. However, we did not examine the estimating methodology used by the Iraqi government and cannot attest to its accuracy.

To address the staffing effort for the CPA, we collected and analyzed information provided by the CPA, USAID, the Department of State, and the Army Corps of Engineers. We interviewed officials from these departments as well as from the Departments of Justice and the Treasury. We relied primarily on staffing data from the CPA personnel office, as its data was the most comprehensive and it was responsible for processing and managing CPA personnel requirements. To assess the reliability of these data, we (1) interviewed the officials at the CPA who are responsible for compiling these data and (2) performed some basic reasonableness checks of the data against other sources of information. According to CPA officials, the staffing data are only about 90 percent accurate due to the difficulties of tracking personnel entering and exiting Iraq. We determined that the data from March 2004 onward were sufficiently reliable for the purposes of making comparisons of the type of personnel directly supporting the CPA.

Security

With respect to security issues, we focused on (1) the current and projected security trends and the impact of the security situation on military and civilian operations, (2) the multinational force's plan for transitioning security responsibilities to Iraqi security forces and the progress made, and (3) the CPA's transition and integration strategy for militias and the status of implementing the transition and reintegration process.

To analyze the security trends in Iraq and the impact on military and civilian operations, we obtained information from DOD on casualty data of U.S. military personnel due to hostile action in Iraq from March 2003 through April 2004 and from the CPA on the number of certain significant insurgent activities affecting coalition operations from October 2003 to May 15, 2004. We also obtained documents and interviewed officials

from the CPA, the Department of State, the multinational force, the United Nations, and nongovernmental organizations on the security situation in Iraq and its impact on operations. We also obtained information from State about opinion polls in Iraq on the security situation. We corroborated the data on insurgent activities with classified sources. We determined that the data were sufficiently reliable for establishing general trends in the security situation.

To describe the plan for transitioning security responsibilities to Iraqi forces and the progress made, we obtained and reviewed the transition plan and related documents, orders, and status reports on progress in building Iraqi forces and their performance from the CPA and DOD. We interviewed officials from the CPA, Defense, and State on the plans and progress being made. We obtained data on the number of Iraqi security forces from DOD. We corroborated the information with classified sources and public testimony and statements from U.S. officials about the situation. We determined that the data were sufficiently reliable for the purpose of describing the plan and progress on transitioning security responsibilities to Iraqi forces.

To describe the plan for and status of reintegrating Iraq's militias into civilian life, we obtained and reviewed the CPA's Transition and Reintegration plan and supporting documentation, such as CPA Order 91. We also discussed the status, progress, and challenges to this effort with CPA officials implementing the plan. The number of militia members participating in the plan is a CPA estimate. We discussed the estimate with CPA officials to determine their approach for deriving the estimate. We determined that the information was sufficiently reliable for the purpose of indicating the general size of the militias.

Governance

For the governance issue, we examined (1) the status of the Iraqi national ministries and U.S. efforts to strengthen the ministries and establish subnational governing institutions and (2) the status of the Iraqi judicial system and U.S. efforts to reform it. To examine the status of Iraqi ministries, we reviewed CPA orders, documents, budgets, and periodic reports describing Iraq's national ministries; we also reviewed CPA and USAID reports and documents on developments in subnational government institutions and U.S. assistance to these bodies. We also interviewed officials from the CPA, USAID, and nongovernmental organizations implementing U.S. programs at the subnational level in Iraq to determine how the national ministries and subnational governing bodies are operating and how the United States has assisted them. The budget information on the number of Iraqi civil servants in each ministry is an estimate published by the Ministries of Finance and Planning and is subject to revision. We interviewed CPA officials about the budget preparation and the process of compiling the data, and we examined both the original 2004 budget and the revised budget. We reviewed the guidance for preparing the budget. We determined that the data were sufficiently reliable for the purpose of describing the general number of staff in Iraqi ministries.

To examine the status of the Iraqi judicial system, we reviewed related CPA orders, weekly reports, correspondence and memoranda, CPA's strategic plan, and an

assessment of the judicial system prepared by the Department of Justice. We also spoke with officials from the CPA, Justice, and USAID about the status of Iraq's judiciary, U.S. efforts to rehabilitate it, and the results of these efforts. We found the information on the number of judges in Iraq to be generally consistent with several CPA documents.

Essential Services: Restoring Iraqi Electricity

For the essential services issue, we focused our initial effort on the Army Corps of Engineers' Restore Iraqi Electricity (RIE) program[1] because it is a major component of the U.S. assistance effort to rebuild the power sector. Specifically, we reviewed the status of the effort, the effect of the security environment on progress, and oversight of the program. To determine the progress made in restoring electricity, we reviewed weekly and daily status reports prepared by the Corps and the CPA and weekly status reports from Corps contractors from April and May 2004. We compiled these data and analyzed the result to provide summary data. For additional context on the status of electrical service under the previous regime and in May 2003, we used survey data prepared under contract to USAID. To assess the reliability of the survey data, we reviewed the survey methodology and questionnaire and compared the results with testimonial evidence on electricity distribution. We noted that more than 7,000 individuals were surveyed but that it may be difficult to make precise comparisons among governorates. However, we determined that the survey data were sufficiently reliable to provide a broad indication of electrical distribution by governorate. To document the effect of Iraq's security environment on RIE progress, we interviewed Corps and CPA officials in the United States and Iraq, participated in videoconferences between the Corps and its contractors, and reviewed a selection of RIE contractor reports from April and May 2004. We also obtained documents from the Corps for data on security and contract costs and funding. To document the oversight framework for RIE projects, we interviewed Corps officials in the U.S. and Iraq and reviewed a number of examples of their reporting. We also participated in teleconferences between U.S. and Iraq-based Corps officials and between Corps officials and RIE contractors to observe and document the nature of oversight coordination. We obtained a summary of DCAA reporting from the Corps and used this summary to document the status of DCAA review.

We reviewed the data for anomalies and documented the Corps' processes for assuring data reliability from contractor reports, and we interviewed officials familiar with the data collection. We determined that the data were sufficiently reliable to meet our reporting objectives.

[1]Although other efforts directed at improving Iraq's electricity are under way, our review addresses only the RIE portion of the overall program and its relationship to the CPA's goal of 6,000 megawatt of peak deliverable capacity.

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Related GAO Products

United Nations: Observations on the Oil for Food Program and Iraq's Food Security. GAO-04-880T. Washington, D.C.: June 16, 2004.

Contract Management: Contracting for Iraqi Reconstruction and for Global Logistics Support. GAO-04-869T. Washington, D.C.: June 15, 2004.

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June 15, 2004

CONTRACT MANAGEMENT: Contracting for Iraq Reconstruction and for Global Logistics Support Statement of David M. Walker Comptroller General of the United States

United States General Accounting Office

GAO

Testimony

Before the Committee on Government Reform, House of Representatives

For Release on Delivery
Expected at 11:00 a.m. EDT
June 15, 2004

CONTRACT MANAGEMENT

Contracting for Iraq Reconstruction and for Global Logistics Support

Statement of David M. Walker
Comptroller General of the United States



Chairman Davis, Ranking Member Waxman, and Members of the Committee:

I appreciate the opportunity to be with you today to discuss some of the work the General Accounting Office (GAO) is undertaking to address various operations and rebuilding efforts in Iraq. Specifically, GAO has a body of ongoing work looking at a range of issues involving Iraq, including Iraq's transitional administrative law, efforts to restore essential services to the Iraqi people, and the effectiveness of logistics activities during Operation Iraqi Freedom, among others. Importantly, given the challenging security environment in Iraq and the various other accountability organizations involved in the oversight process, we are attempting to coordinate our engagement planning and execution with other organizations as appropriate.

Today, I would like to discuss (1) our report that we released yesterday on the contract award procedures for contracts awarded in fiscal year 2003 to help rebuild Iraq[1] and (2) our preliminary findings on the military's use of global logistics support contracts. These support contracts have emerged as important tools in providing deployed military services with a wide range of logistics services.

Before I discuss our findings, I would like to briefly touch upon the scope of these two efforts. First, given the widespread congressional interest in ensuring that Iraq reconstruction contracts are awarded properly and administered effectively, we initiated a review under my authority that focused on reconstruction-related contract actions by the Department of Defense (DOD) (primarily the U.S. Army, including the Army Corps of Engineers), the U.S. Agency for International Development (USAID), and the Department of State. Specifically, we judgmentally selected 25 fiscal year 2003 contract actions, consisting of 14 new contracts awarded using other than full and open competition and 11 task orders issued under existing contracts. These 25 contract actions represented about 97 percent of the nearly $3.7 billion that had been obligated for Iraqi reconstruction through September 30, 2003. We conducted this work between May 2003 and April 2004 in accordance with generally accepted government auditing standards.

[1] See U.S. General Accounting Office, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges*, GAO-04-605 (Washington, D.C.: June 1, 2004).

Second, our work on the military's use of global logistics support contracts, initiated at the request of the Ranking Members of this committee and the House Committee on Energy and Commerce, is one of a series of studies we have done on the military's use of private contractors to support deployed forces.[2] This work looks broadly across each of the services and includes four contracts: (1) the Army's Logistics Civil Augmentation Program (LOGCAP) contract; (2) the Air Force's Contract Augmentation Program (AFCAP) contract; (3) the U.S. Army, Europe's Balkan Support Contract (BSC); and (4) the Navy's Construction Capabilities (CONCAP) contract. We have completed our fieldwork and are now drafting our report, which we expect to publish this summer. In performing our work, we examined a wide range of contract documents and contracting guidance and met with contracting officers, contract customers, and the contractors to gain a comprehensive understanding of the contracts, the contract management process, and the issues related to using these contracts. We conducted this work between August 2003 and June 2004 in accordance with generally accepted government auditing standards.

Summary

With regard to the award of fiscal year 2003 Iraq reconstruction contracts, we found that agencies generally complied with applicable laws and regulations governing competition when using sole-source or limited competition approaches to award new contracts. However, they did not always do so when issuing task orders under existing contracts. In several instances, we found that contracting officers issued task orders for work that was not within the scope of the underlying contracts. The out-of-scope work under these orders should have been awarded using competitive procedures or, because of the exigent circumstances involved, supported by a justification for other than full and open competition in accordance with legal requirements. In this regard, given the needs relating to and the challenges associated with Iraq reconstruction efforts, such justifications were likely possible but needed to be made and documented to comply with the law and protect the taxpayer's interests.

[2] See, for example, U.S. General Accounting Office, *Contingency Operations: Opportunities to Improve the Logistics Civil Augmentation Program*. GAO/NSIAD-97-63 (Washington, D.C.: Feb. 11, 1997); U.S. General Accounting Office, *Contingency Operations: Army Should Do More to Control Contract Cost in the Balkans*. GAO/NSIAD-00-225 (Washington, D.C.: Sept. 29, 2000); and U.S. General Accounting Office, *Military Operations: Contractors Provide Vital Services to Deployed Forces But Are Not Adequately Addressed in DOD Plans*, GAO-03-695 (Washington, D.C.: June 24, 2003).

We made several recommendations to the Secretary of the Army, including reviewing out-of-scope task orders to address outstanding issues and take appropriate actions, as necessary. We also recommended that the Secretary of Defense evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate acquisition staff and other resources can be made available in a timely manner. DOD generally concurred with our recommendations.

With regard to DOD's use of global logistics support contracts, we found mixed results in each of the four areas we reviewed: planning, oversight, efficiency, and personnel. For example, we found that some DOD customers planned quite well for the use of the contracts, following service instructions and including the contractor early in planning. Conversely, we found that the use of the LOGCAP contract in Kuwait and Iraq was not adequately planned, nor was it planned in accordance with applicable Army guidance. Given the lack of early and adequate planning and contractor involvement, two key ingredients needed to maximize LOGCAP support and minimize cost—a comprehensive statement of work and early contractor involvement—were missing. We also found that while oversight processes were in place and functioning well in some places, there were several areas needing improvement, such as in reaching agreement on terms, specifications and prices of services to be delivered. We also found that while some military commands actively looked for ways to save money, others exhibited little concern for cost considerations. Finally, shortages in personnel trained in contract management and oversight is also an issue that needs to be addressed. Our report will make a number of recommendations to address these shortcomings.

Compliance with Competition Requirements

We found that the agencies responsible for rebuilding Iraq generally complied with applicable requirements governing competition when awarding new reconstruction contracts in fiscal year 2003. While the Competition in Contracting Act of 1984 requires that federal contracts be awarded on the basis of full and open competition, the law and implementing regulations recognize that there may be circumstances under which full and open competition would be impracticable, such as when contracts need to be awarded quickly to respond to unforeseen and urgent needs or when there is only one source for the required product or service. In such cases, agencies are given authority by law to award contracts under limited competition or on a sole-source basis, provided that the proposed actions are appropriately justified and approved.

We reviewed 14 new contracts that were awarded in fiscal year 2003 using other than full and open competition: a total of 5 sole-source contracts awarded by the Army Corps of Engineers, the Army Field Support Command, and USAID; and 9 limited competition contracts awarded by the Department of State, the Army Contracting Agency, and USAID. For 13 of these new contracts, agency officials adequately justified their decisions and complied with the statutory and regulatory competition requirements. For example, USAID officials awarded seven contracts under limited competition and two sole-source contracts citing an exception to the competition requirements that was provided for under the Federal Property and Administrative Services Act.[3] USIAD concluded that the use of standard competitive procedures would not enable it to put in place foreign aid programs and activities for Iraq in a timely manner. We found that USAID's justification and approval documentation supporting the award of these contracts complied with applicable requirements. As I will shortly discuss in more detail, we also found that the Army Corps of Engineers properly justified the award of a sole-source contract to restore Iraq's oil infrastructure. In one case, however, the Department of State justified and approved the use of limited competition under a unique authority that, in our opinion, may not be a recognized exception to the competition requirements. At the same time, State took steps to obtain some competition by inviting offers from four firms. In addition, it is likely that State could have justified and approved its limited competition under recognized exceptions to the competition requirements.

With respect to issuing a task order under an existing contract, the competition law does not require competition beyond that obtained for the initial contract award,[4] provided the task order does not increase the scope of the work, period of performance, or maximum value of the contract under which the order is issued. The scope, period, or maximum value may be increased only by modification of the contract, and competitive procedures are required to be used for any such increase unless an authorized exception applies. As we noted in our report released yesterday, determining whether work is within the scope of an existing

[3] The Act's authority for waiving competitive contracting procedures that would impair foreign aid programs was recently recodified and enacted into positive law (40 U.S.C. § 113(e)).

[4] If more than one contractor was awarded a contract, however, then all the contractors are required to be provided a fair opportunity to be considered for the task order.

task order contract is primarily an issue of contract interpretation and judgment by the contracting officer.

- We found several compliance problems when agencies issued task orders under existing contracts. Specifically, of the 11 task orders we reviewed, 7 were, in whole or part, not within scope. For example, the Defense Contracting Command-Washington (DCC-W)[5] improperly used a General Services Administration (GSA) schedule contract to issue two task orders to the Science Applications International Corporation with a combined value of over $107 million for work that was outside the scope of the schedule contract. One order involved developing a news media capability—including radio and television programming and broadcasting—in Iraq. The other required the contractor to recruit people identified by DOD as subject matter experts, enter into subcontracts with them, and provide them with travel and logistical support within the United States and Iraq. The GSA schedule contract, however, was for management, organizational, and business improvement services for federal agencies. In our view, the statements of work for both task orders were outside the scope of the schedule contract.
- Another example of an agency issuing a task order that was outside the scope of the underlying contract involved the Army Field Support Command's $1.9 million task order for contingency planning for the Iraqi oil infrastructure mission under the LOGCAP contract with Kellogg Brown & Root.[6] This task order, issued in November 2002, required the contractor to develop a plan to repair and restore Iraq's oil infrastructure should Iraqi forces damage or destroy it. Because the contractor was knowledgeable about the U.S. Central Command's planning for conducting military operations, DOD officials determined that the contractor was uniquely positioned to develop the contingency support plan. DOD also determined that developing the contingency plan was within the scope of the overall LOGCAP contract. We have concluded, however, that preparation of the contingency support plan for this specific mission (i.e. restoring Iraq's oil infrastructure) was beyond the scope of the contract. Specifically, we read the LOGCAP statement of work as providing for contingency planning only when the execution of the mission involved is within the scope of the

[5] DCC-W, a division within the office of the Administrative Assistant to the Secretary of the Army, provides administrative support, including contracting support, to DOD components located in the National Capital Region.

[6] The LOGCAP contract, which was competitively awarded in 2001, requires the contractor to provide the Army and other entities with planning and a broad range of logistics services in wartime and other operations. The Army has used LOGCAP to support both military operations and reconstruction efforts in Iraq.

contract. In this regard, all parties—including GAO and DOD—agree that repairing Iraq's oil infrastructure would not have been within the scope of the LOGCAP contract. Consequently, we concluded that planning the oil infrastructure restoration was also not within the scope of the contract. The Army Field Support Command should have prepared a written justification to authorize the work without competition. In light of the exigent circumstances, such a justification was likely possible but needed to be made and documented to comply with the law and protect the taxpayer's interests.

- DOD planners believed early on that issuance of this task order would result in Kellogg Brown & Root being uniquely qualified to initially execute the plan for restoring the Iraqi oil infrastructure, the so-called "RIO contract." Subsequently, the RIO contract was awarded in March 2003 to Kellogg Brown & Root.[7] The contracting officer's written justification for the sole-source contract outlined the rationale for the decision.[8] The justification was approved by the Army's senior procurement executive, as required. We reviewed the justification and approval documentation and determined that it generally complied with applicable legal standards.

We made several recommendations to the Secretary of the Army to review out-of-scope task orders to address outstanding issues and take appropriate actions, as necessary. DOD generally concurred with the recommendations and noted that it was in the process of taking corrective actions. DOD also agreed with our recommendation that the Secretary of Defense evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate acquisition staff and other resources can be made available in a timely manner.

DOD's Use of Logistics Support Contracts

I will now turn to discussing our ongoing work on DOD's use of global logistics support contracts. As I previously noted, we looked at four such contracts, which have been used by all the military services to provide a wide array of services, including operating dining facilities and providing housing, in more than half a dozen countries, including Iraq, Kuwait, and Afghanistan. In total, the estimated value of the work under the current contracts is $12 billion, including $5.6 billion for work in Iraq through

[7] According to the Army Corps of Engineers, more than $2.5 billion had been obligated on the contract as of May 2004.

[8] As we reported, DOD concluded that there was only one source with the capability to perform emergency repairs to the oil infrastructure given (1) the classified nature of the planning efforts, (2) the contractor's role in those efforts, and (3) the imminent commencement of hostilities.

May 2004. Before summarizing our preliminary findings, let me first make an overall observation about the vital services that these types of contracts provide. The contractors and the military services have, for the most part, worked together to meet military commanders' needs, sometimes in very hazardous or difficult circumstances. For example, the LOGCAP contract is providing life and logistics support to more than 165,000 soldiers and civilians under difficult security circumstances in Iraq, Afghanistan, Kuwait, and Djibouti, and customers told us they are generally pleased with the service the contractor is providing. The AFCAP contractor is providing air traffic management at air bases throughout central Asia, supplementing scarce Air Force assets and providing needed rest for Air Force service members who also perform this function. Using the CONCAP contract, the Navy has constructed detainee facilities (including a maximum security prison) at Guantanamo Bay on time and within budget. Projects at Guantanamo have increased the safety of both the detainees and the U.S. forces guarding them and resulted in real savings in reduced personnel tempo. Finally, the BSC continues to provide a myriad of high quality services to troops in Kosovo and Bosnia, and the customer works with the contractor to identify costs savings.

Within this overall context, we found mixed results in each of the four areas we reviewed—planning, oversight, efficiency and personnel—with variations occurring among the four contracts and among the various commands using them. Our report, which will be issued later this year, will make a number of recommendations to address the shortcomings we identified in these areas.

Planning

In assessing DOD's planning, we found that some customers planned quite well for the use of the contracts, following service guidance and including the contractor early in planning. For example, in planning for Operation Iraqi Freedom, U.S. Army, Europe, was tasked with supporting the anticipated movement of troops through Turkey into Iraq, and our review of that planning showed that the command followed applicable Army guidance to good effect. In October 2002, the command brought contractor personnel to its headquarters in Europe to help plan and develop the statement of work. According to a briefing provided by U.S. Army, Europe, contractor planners brought considerable knowledge of contractor capabilities, limitations, and operations, and their involvement early in the planning efforts increased understanding of the requirements and capabilities, facilitated communication regarding the statement of work, and enhanced mission completion.

Conversely, we found that the use of LOGCAP in Kuwait and Iraq was not adequately planned, nor was it planned in accordance with applicable Army guidance. Given the lack of early and adequate planning and contractor involvement, two key ingredients needed to maximize LOGCAP support and minimize cost—a comprehensive statement of work and early contractor involvement—were missing. Specifically:

- A plan to support the troops in Iraq was developed in May 2003, but was not comprehensive because the contractor was not involved in the early planning and it did not include all of the dining facilities, troop housing, and other services that the Army has since added to the task order. According to an official from the 101st Airborne Division, there was a lack of detailed planning for the use of LOGCAP at the theater and division levels for the sustainment phase of the operation. He added that Army planners should develop a closer working relationship with the divisions and the contractor.
- Task orders were frequently revised. These revisions generated a significant amount of rework for the contractor and the contracting officers. Additionally, time spent reviewing revisions to the task orders is time that is not available for other oversight activities. While operational considerations may have driven some of these changes, we believe others were more likely to have resulted from ineffective planning. For example, the task order supporting the troops in Iraq was revised 7 times in less than 1 year. Frequent revisions have not been limited to this task order. Task order 27, which provides support to U.S troops in Kuwait (estimated value of $426 million as of May 2004), was changed 18 times between September 2002 and December 2003, including 5 changes in one month, some on consecutive days. As of May 11, 2004, the contracting office, DCMA, and the contractor had processed more than 176 modifications to LOGCAP task orders.

Contract Oversight

In some cases, we found that contract oversight processes were in place and functioning well. For example, the Defense Contract Management Agency (DCMA) had principal oversight responsibility for the LOGCAP and AFCAP contracts and the BSC,[9] and DCMA generally provided good overall contract oversight, although we found some examples where it could have improved its performance. For example:

[9] While oversight of a contract is the responsibility of the contracting officer, the contracting officer may delegate some oversight responsibilities to DCMA.

- Effective oversight of the diverse functions performed under the contracts requires government personnel with knowledge and expertise in these specific areas. DCMA contract administrators are contracting professionals, but many have limited knowledge of field operations. In these situations, DCMA normally uses contracting officer's technical representatives. Contracting officer's technical representatives are customers who have been designated by their units and appointed and trained by the administrative contracting officer. They provide technical oversight of the contractor's performance. We found that DCMA had not appointed these representatives at all major sites in Iraq. Officials at the 101st Airborne Division, for example, told us that they had no contracting officer's technical representatives during their year in Iraq, even though the division used LOGCAP services extensively.
- For task orders executed in southwest Asia, the AFCAP procuring contracting officer delegated the property administration responsibility to DCMA administrative contracting officers. However, contract administrators in southwest Asia did not ensure that the contractor had established and maintained a property control system to track items acquired under the contract. In addition, DCMA contracting officers in southwest Asia did not have a system in place to document what the contractor was procuring in support of AFCAP task orders and what was being turned over to the Air Force. As a result, as of April 2004, neither DCMA nor the Air Force could account for approximately $2 million worth of tools and construction equipment purchased through the AFCAP contract.

An important element of contract administration is the definitizing of task orders, that is, reaching agreement with the contractor on the terms, specifications, or price of services to be delivered. All of the contracts included in our review were cost-plus award fee contracts. These contracts allow the contractor to be reimbursed for reasonable, allowable, and allocable costs incurred to the extent prescribed by the contract and provide financial incentives based on performance. Cost-plus award fee contracts allow the government to evaluate a contractor's performance according to specified criteria and to grant an award amount within designated parameters. Award fees can serve as a valuable tool to help control program risk and encourage excellence in contract performance. To reap the advantages that cost-plus award fee contracts offer, the government must implement an effective award fee process. Any delays in definitizing task orders, however, make cost-control incentives in these award fee contracts less effective as a cost control tool since there is less work remaining to be accomplished and therefore less costs to be controlled by the contractor.

While we found that AFCAP and BSC task orders were definitized quickly, and CONCAP task orders do not require definitization since the terms, specifications, and price are agreed to before work begins, we also found that many LOGCAP task orders remain undefinitized for months, and sometimes more than a year, after they were due to be completed and after billions of dollars of work had been completed. Because task orders have not been definitized, LOGCAP contracting personnel have not conducted an award fee board. I would like to note, however, that this condition is not limited to the LOGCAP contract. We stated in our report released yesterday that the Army Corps of Engineers has yet to definitize its March 2003 contract to rebuild Iraq's oil infrastructure or one of its contracts to rebuild Iraq's electrical infrastructure and recommended that the undefinitized contracts and task orders be definitized as soon as possible. DOD agreed with this recommendation and identified a number of steps being taken to do so.

Economy and Efficiency

We again found mixed results in evaluating the attention to economy and efficiency in the use of contracts. In some cases, we saw military commands actively looking for ways to save money in the contracts. For example, U.S. Army, Europe, reported savings of approximately $200 million under the BSC by reducing labor costs, by reducing services, and by closing or downsizing camps that were no longer needed. The $200 million is almost 10 percent of the current contract ceiling price of $2.098 billion. In addition to these savings, U.S. Army, Europe, routinely sends in teams of auditors from its internal review group to review practices and to make recommendations to improve economy and efficiency. In others, however, most notably the LOGCAP contract in Iraq and Kuwait, we saw very little concern for cost considerations. It was not until December 2003, for example, that the Army instructed commands to look for ways to economize on the use of this contract. Similarly, we found that the Air Force did not always select the most economical and efficient method to obtain services. It used the AFCAP contract to supply commodities for its heavy construction squadrons, although use of the contract to procure and deliver commodity supplies required that the Air Force pay the contractor's costs plus an additional award fee. Air Force officials said that they used AFCAP because not enough contracting and finance personnel were deployed to buy materials quickly or in large quantities. AFCAP program managers have recognized that the use of a cost-plus award fee contract to buy commodities may not be the most cost-effective method and said that the next version of the contract may allow for either firm-fixed prices or cost-plus fixed fee procurements for commodity purchases.

Personnel and Training

We found that shortages of personnel have also made contract oversight difficult. For example, while DCMA has deployed contracting officers to several countries throughout southwest and central Asia and the Balkans to provide on-site contract administration, DCMA officials believe that additional resources are needed to effectively support the LOGCAP and AFCAP contracts. Administrative contracting officers in Iraq, for example, have been overwhelmed with their duties as a result of the expanding scope of some of the task orders. Additionally, some Army and Air Force personnel with oversight responsibilities did not receive the training necessary to effectively accomplish their jobs. Finally, we found that military units receiving services from the contracts generally lacked a comprehensive understanding of their contract roles and responsibilities. For example, commanders did not understand the part they played in establishing task order requirements, nor did they fully understand the level of support required by the contractors.

Concluding Observations

In conclusion, Mr. Chairman, the United States, along with its coalition partners and various international organizations and donors, has undertaken an enormously complex, costly, and challenging effort to rebuild Iraq in an unstable security environment. At the early stages of these efforts, agency procurement officials were confronted with little advance warning on which to plan and execute competitive procurement actions, an urgent need to begin reconstruction efforts quickly, and uncertainty as to the magnitude and term of work required. Their actions, in large part, reflected proper use of the flexibilities provided under procurement laws and regulations to award new contracts using other than full and open competitive procedures.

With respect to several task orders issued under existing contracts, however, some agency officials overstepped the latitude provided by competition laws by ordering work outside the scope of the underlying contracts. This work should have been separately competed, or justified and approved at the required official level for performance by the existing contractor. Importantly, given the war in Iraq, the urgent need for reconstruction efforts, and the latitude allowed by the competition law, these task orders reasonably could have been supported by justifications for other than full and open competition.

Logistics support contracts have developed into a useful tool for the military services to quickly obtain needed support for troops deployed to trouble spots around the world. Because of the nature of these contracts, however—that is, cost-plus award fee contracts—they require significant

government oversight to make sure they are meeting needs in the most economic and efficient way possible in each circumstance. While the military services are learning how to use these contracts well, in many cases the services are still not achieving the most cost-effective performance and are not adequately learning and applying the lessons of previous deployments. Because of the military's continuing and growing reliance on these contracting vehicles, it is important that improvements be made and that oversight be strengthened.

Mr. Chairman and Members of the committee, this concludes my statement. I will be happy to answer any question you may have.

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July 2004

NUCLEAR NONPROLIFERATION: DOE Needs to Take Action to Further Reduce the Use of Weapons-Usable Uranium in Civilian Research Reactors

United States Government Accountability Office

GAO

Report to the Chairman, Subcommittee on Emerging Threats and Capabilities, Committee on Armed Services, U.S. Senate

July 2004

NUCLEAR NONPROLIFERATION

DOE Needs to Take Action to Further Reduce the Use of Weapons-Usable Uranium in Civilian Research Reactors



GAO-04-807

July 2004

NUCLEAR NONPROLIFERATION

DOE Needs to Take Action to Further Reduce the Use of Weapons-Usable Uranium in Civilian Research Reactors

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Highlights

Highlights of GAO-04-807, a report to the Chairman, Subcommittee on Emerging Threats and Capabilities, Committee on Armed Services, U.S. Senate

Why GAO Did This Study

Nuclear research reactors worldwide use highly enriched uranium (HEU) as fuel and for the production of medical isotopes. Because HEU can also be used in nuclear weapons, the Department of Energy's (DOE) Reduced Enrichment for Research and Test Reactors program is developing low enriched uranium (LEU), which would be very difficult to use in weapons, to replace HEU. To date, 39 of the 105 research reactors in the United States and abroad targeted by DOE have converted to LEU fuel. GAO was asked to examine (1) the status of the remaining research reactors in converting to LEU fuel, (2) DOE's progress in developing new LEU fuels for reactors where conversion is not yet technically feasible, (3) DOE's progress in developing LEU for the production of medical isotopes, and (4) the status of DOE and Nuclear Regulatory Commission (NRC) efforts to improve security at research reactors.

What GAO Recommends

GAO recommends that DOE consider converting the 6 U.S. university research reactors, remove the HEU fuel from the reactors after their conversion, and evaluate providing additional incentives to foreign research reactors to convert to LEU. DOE agreed with our recommendations. GAO did not fully evaluate, and is not making recommendations on, DOE and NRC efforts to improve security at research reactors.

www.gao.gov/cgi-bin/getrpt?GAO-04-807.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Gene Aloise at (202) 512-3841 or aloisee@gao.gov.

What GAO Found

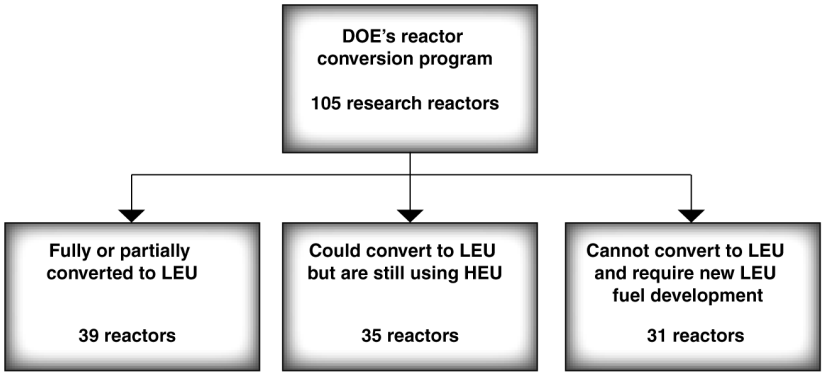
Currently, conversion to LEU fuel is technically feasible for 35 of the 66 research reactors in DOE's program that still use HEU fuel, but most do not have plans to convert. In the United States, 8 research reactors, including 6 university research reactors, have not converted because DOE has not provided the necessary funding. Of the 20 foreign research reactors that use U.S.-origin HEU fuel, 14 do not have plans to convert because they have a sufficient supply of HEU fuel and either do not want to incur the additional cost of conversion or do not have the necessary funding. Finally, only 1 of 7 Russian-supplied research reactors that could use LEU fuel is scheduled to convert.

Conversion to LEU fuel is not technically feasible for 31 research reactors worldwide that still use HEU fuel. DOE has experienced technical setbacks in fuel development that have postponed the conversion of the 31 reactors until 2010 at the earliest. One fuel failed unexpectedly in testing, and DOE may cancel further development, depending on the results of additional tests. Initial testing of another LEU fuel produced positive results, but additional testing is required and the fuel will not be developed until 2010 at the earliest.

Separately from the development of LEU fuel, DOE is developing LEU to replace HEU in the production of medical isotopes. DOE has not yet completed the work that would enable conversion of large-scale medical isotope production to LEU. One reactor has converted to LEU for small-scale production. However, large-scale producers are concerned that the cost of converting to LEU could be prohibitive.

DOE and NRC have taken steps to improve security at foreign and U.S. research reactors. While operators at most research reactors we visited said that security had been upgraded through DOE or NRC efforts, we observed areas where further improvements could be made. Recognizing the possible need for further improvements, DOE and NRC are engaged in separate efforts to assess and improve security.

Conversion Status of Research Reactors Included in DOE's Reactor Conversion Program



Source: Argonne National Laboratory.

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Abbreviations

Argonne	Argonne National Laboratory
DOE	Department of Energy
HEU	highly enriched uranium
INEEL	Idaho National Engineering and Environmental Laboratory
LEU	low enriched uranium
NDF	Nonproliferation and Disarmament Fund
NRC	Nuclear Regulatory Commission
RERTR	Reduced Enrichment for Research and Test Reactors program

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United States Government Accountability Office
Washington, D.C. 20548

July 30, 2004

The Honorable Pat Roberts
Chairman, Subcommittee on
Emerging Threats and Capabilities
Committee on Armed Services
United States Senate

Dear Mr. Chairman:

Nuclear research reactors located throughout the world play a vital role in medicine, agriculture, industry, and basic scientific research. Many of the research reactors use highly enriched uranium (HEU) in one of two ways, either as fuel or as an ingredient for the production of medical isotopes used to treat cancer or conduct medical diagnoses. HEU is also a key component in the construction of nuclear weapons—it takes as little as 25 kilograms of HEU to build a nuclear weapon. The amount of HEU located at research reactors worldwide ranges from several kilograms to in excess of 20 kilograms.

The United States has a long-standing policy of reducing and, to the extent possible, eliminating the use of HEU in civilian research reactors. To support this policy, the Department of Energy (DOE) initiated the Reduced Enrichment for Research and Test Reactors (RERTR) program in 1978 to develop the technology to reduce and eventually eliminate the use of HEU in civilian research reactors worldwide.[1] DOE's Argonne National Laboratory (Argonne) is the technical lead for the program and conducts research and development to find alternatives to the two uses of HEU in research reactors. The program's goal is to replace HEU with low enriched uranium (LEU), which would be very difficult to use in nuclear weapons.[2] The Secretary of Energy reiterated DOE's support for the reactor conversion program and committed to the conversion of all U.S. civilian research reactors by 2013 in a speech on May 26, 2004.

To achieve the program's objectives, Argonne conducts extensive tests on new LEU fuels and materials for isotope production to find suitable

[1]In this report, we refer to the RERTR program as the reactor conversion program.

[2]HEU is enriched in the isotope uranium-235 to 20 percent or greater. LEU is enriched to less than 20 percent.

alternatives that do not negatively affect research reactors' performance, operating costs, or operational safety. Part of Argonne's strategy is to have multiple fuels under development to address the unique fuel needs of the different types of research reactors included in DOE's reactor conversion program. Research reactors are designed for different purposes and have operating characteristics that affect their ability to convert to LEU. As a result, an LEU fuel that can be used in one research reactor may not be suitable for another.

The scope of DOE's reactor conversion program includes LEU fuel development for 105 research reactors located in the United States and 40 other countries. Since the inception of the program through July 2004, 39 of the 105 reactors have either converted or are in the process of converting to LEU. Argonne officials estimate that prior to converting to LEU, these 39 research reactors used over 240 kilograms of HEU fuel per year, enough to build about 10 nuclear weapons. In contrast, they estimate that the remaining 66 research reactors, which have not converted to LEU, continue to use over 800 kilograms of HEU fuel per year. Thirty-five of these reactors could convert using currently available LEU fuels, and Argonne is developing new LEU fuels for 31 research reactors that cannot convert using any of the fuels already developed. In particular, after screening a large number of potential LEU fuels, Argonne has identified two fuels, dispersion fuel and monolithic fuel, for further testing and development. Both of these fuels use an alloy of uranium and another metal called molybdenum and differ in how the fuel is manufactured. Dispersion fuel consists of spherical particles of uranium-molybdenum alloy that are randomly dispersed in a thin layer of aluminum. In contrast, monolithic fuel consists of a thin sheet of solid uranium-molybdenum alloy.[3]

The reactor conversion program also develops LEU alternatives for six medical isotope producers, all located outside the United States, that use an estimated 85 kilograms of HEU per year in their production processes. The use of HEU for medical isotope production is separate from the type of fuel used in research reactors. Developing the technology to convert to LEU for medical isotope production requires a technical effort that is separate from the development of new LEU fuels.

[3]In this report, we use the terms "dispersion fuel" and "monolithic fuel" to refer specifically to the new LEU fuels being developed by the reactor conversion program that use an alloy of uranium and molybdenum.

Concerned about the potential theft or diversion of HEU from research reactors, DOE and the Nuclear Regulatory Commission (NRC) are engaged in efforts to monitor and improve security at research reactors, many of which are located on university campuses or other facilities used by students and researchers. Since 1974, DOE has engaged in efforts to improve nuclear material security in over 50 countries, including security over nuclear material at research reactors. In the United States, NRC regulates research reactors to ensure an acceptable level of safety and security and conducts regular inspections to ensure compliance with regulations on safety and security.

In response to your request concerning the use of HEU at civilian research reactors, we examined (1) the status of research reactors worldwide in converting to LEU fuels developed by DOE's reactor conversion program, (2) the program's progress in developing new LEU fuels for use in research reactors that cannot convert to currently available LEU fuels, and (3) the program's progress in developing LEU for use in the production of medical isotopes. In addition, because HEU continues to be used and stored at research reactors worldwide, we gathered information on the status of DOE and NRC efforts to improve the security of research reactors in the United States and other countries.

To address these objectives, we analyzed documentation on the reactor conversion program from DOE and Argonne, including information on the status of reactors in converting to LEU, development of LEU fuels, and development of LEU for medical isotope production. We visited research reactors in the United States, Belgium, Germany, the Netherlands, Poland, Portugal, Romania, Russia, and Ukraine; attended an annual international conference on DOE's reactor conversion program; and obtained information on the status of developing LEU fuels and LEU for the production of medical isotopes from reactor conversion program officials at Argonne. We also discussed the status of the program and security of HEU at foreign and domestic research reactors with foreign officials in the countries we visited and with DOE and NRC officials. However, we did not evaluate the effectiveness of the security at research reactors or DOE and NRC efforts to improve security. We conducted our review from July 2003 to July 2004 in accordance with generally accepted government auditing standards.

You also asked that we examine two other DOE programs closely related to the reactor conversion program: the Foreign Research Reactor Spent Nuclear Fuel Acceptance program and the Russian Research Reactor Fuel

Return program. The Foreign Research Reactor Spent Nuclear Fuel Acceptance program is intended to recover and store U.S.-origin research reactor fuel, including both HEU and LEU, from 41 eligible countries throughout the world. The Russian Research Reactor Fuel Return program assists in the return of Russian-origin research reactor fuel to Russia, mostly from countries of the former Soviet Union and Central and Eastern Europe. Together with DOE's reactor conversion program, these programs support the objective of reducing and eventually eliminating the use of HEU for civilian applications. As agreed with your office, we will address these two programs in a follow-on report.

Results in Brief

According to Argonne's analysis, conversion to LEU fuel is technically feasible for 35 of the 66 research reactors in DOE's reactor conversion program that still use HEU fuel, but most do not have plans to convert. In the United States, 8 research reactors, including 6 university reactors, could convert to LEU fuel, but DOE has not provided the necessary funding (estimated by DOE at about $5 million to $10 million per reactor). In addition, a university research reactor that converted to LEU in 2000 is still storing HEU fuel because DOE has not removed it. DOE officials said they have not made the conversion of the 6 university research reactors a priority because the reactors use only a small amount of HEU fuel. Officials at NRC, which regulates most of the U.S. research reactors included in DOE's reactor conversion program, said that they consider the conversion of the university reactors a security enhancement and one of their priorities and that the delay is purely a matter of funding. Operators of the 6 reactors said they would convert to LEU fuel when DOE provides the funding. DOE's reactor conversion program cooperates closely with operators of foreign research reactors and promotes conversion from HEU to LEU. Ultimately, however, it is the owners of the foreign reactors that make the decision to convert to LEU. Of the 20 foreign research reactors that use U.S.-origin HEU fuel, 14 do not have plans to convert to LEU because they generally have a sufficient supply of HEU and either do not want to incur the additional cost of conversion or do not have the necessary funding. Finally, since DOE's reactor conversion program initiated cooperation with Russia in 1993, no research reactors that use HEU fuel supplied by Russia have converted. Only 1 of 7 Russian-supplied research reactors that could use LEU fuel is scheduled to convert. DOE officials said that 5 other Russian-supplied reactors are also likely to convert to LEU fuels that are currently available or are expected to become available within the next year.

Technical setbacks in developing new LEU fuels have postponed the conversion of 31 research reactors worldwide that cannot use currently available LEU fuels until 2010 at the earliest. According to Argonne officials, unexpected failures that occurred when testing dispersion fuel—the worst they have ever experienced during fuel development—could render the fuel unusable for most research reactors. As a result of the test failures, Argonne has delayed the completion of dispersion fuel until 2010 and may recommend that DOE cancel further development altogether if the fuel cannot be sufficiently improved. Canceling development of dispersion fuel would leave monolithic fuel as the reactor conversion program's only remaining option for converting the remaining 31 reactors. Initial testing of monolithic fuel has produced positive results, and if tests continue to be successful, it should perform better than dispersion fuel. However, the development process is still at the beginning stages; additional testing is required, and the fuel will not be developed until 2010 at the earliest. Argonne officials said that the current fuel development schedule is already compressed and that no further acceleration is possible. Rather, any technical problems would likely result in further delays. Furthermore, if both fuels fail, Argonne is not working on any other LEU fuel that could replace HEU in the remaining research reactors.

DOE's reactor conversion program has not yet completed the work that would enable conversion of large-scale medical isotope production to LEU, and large-scale producers are concerned that the cost of converting to LEU could be prohibitive. Currently, one reactor in Argentina has converted from using HEU to LEU for the small-scale production of medical isotopes. Argonne officials said that further development is necessary on using LEU for large-scale production. Large-scale producers have built expensive facilities designed to produce medical isotopes using HEU. Any attempt to adapt the facilities to use LEU would involve additional costs. Furthermore, using LEU instead of HEU would increase the amount of waste generated by the production process. Argonne officials said they are working to overcome these challenges and expect to complete development of LEU for large-scale medical isotope production in 2 to 3 years. Two large producers of medical isotopes told us that conversion to LEU would be difficult and costly, and one of them is currently assessing the economic feasibility of conversion.

While operators at most research reactors we visited said that security had been upgraded through DOE or NRC efforts, we also observed areas where further improvements could be made. Recognizing the possible need for further improvements, DOE and NRC are engaged in separate efforts to

assess and improve security at foreign and domestic research reactors, respectively. A DOE task force established in 2004 is currently gathering information on all research reactors worldwide, including reactors that have been shut down, and prioritizing the need for increased security at reactors based on a number of factors, including how much HEU is stored on site. According to DOE officials, the task force addresses the need to combine data from different sources to identify potential security gaps. The task force has submitted a report to the Secretary of Energy with recommendations for possible implementation by DOE. The task force efforts are in addition to assistance that DOE has provided since 1974 to other countries to improve security at their research reactors. In the United States, NRC is conducting assessments of the security at research reactors under its jurisdiction and may increase security requirements based on the results of the assessments. NRC took actions after the attacks of September 11, 2001, to improve the security at domestic research reactors—for example, by requiring that some reactors consider installing additional physical barriers.

We are making recommendations to the Secretary of Energy and the Administrator of the National Nuclear Security Administration to consider placing a higher priority on converting the 6 U.S. university research reactors that are able to convert with existing LEU fuel, to place a high priority on removing the HEU fuel from the reactors after their conversion and transporting it to the appropriate DOE facility, and to evaluate the costs and benefits of providing additional incentives to foreign research reactors that currently use U.S.-origin HEU fuel to convert to LEU.

We provided draft copies of this report to the Departments of Energy and State and to NRC for their review and comment. DOE, State, and NRC generally agreed with the recommendations in our report and provided detailed comments, which we incorporated into the report as appropriate.

Background

Nuclear research reactors are used for training and research purposes throughout the world. Research reactors are generally smaller than nuclear power reactors, ranging in size from less than 1 to 250 megawatts compared with 3,000 megawatts generated by a typical power reactor. In addition, unlike power reactors, many research reactors use HEU fuel instead of LEU in order to produce the appropriate conditions in the reactor cores for conducting a wide variety of research. DOE has identified 161 operating research reactors that were designed to use HEU fuel and has included 105 of them in the reactor conversion program. The research reactors included in the program are spread out among the United States and 40 other countries, including Canada, France, Germany, and Russia (see fig. 1).

Figure 1: Locations of 105 Research Reactors Included in DOE's Reactor Conversion Program



Western and Eastern Europe	Number of Reactors
Austria	2
Belgium	1
Bulgaria	1
Czech Republic	2
Denmark	1
France	5
Germany	5
Greece	1
Hungary	1
Netherlands	3
Poland	1
Portugal	1
Romania	1
Slovenia	1
Sweden	2
Switzerland	1
Turkey	1
Ukraine	1
United Kingdom	3

Source: Argonne National Laboratory.


Western and
Eastern Europe
Russia
14
Kazakhstan
2
North Korea
1
Japan
5
Taiwan
1
Vietnam
1
Philippines
1
Iran
1
Israel
1
Libya
2
Pakistan
1
Uzbekistan
1
Australia
1
South Africa
1

In addition to the 105 research reactors covered under the reactor conversion program, DOE has targeted six medical isotope producers that use HEU as an ingredient in their production processes, including four large medical isotope producers located in Belgium, Canada, the Netherlands, and South Africa.

For a variety of reasons, DOE has excluded from its reactor conversion program 56 research reactors that use HEU fuel, including 9 in the United States. Some of the reactors are used for military or other purposes, such as space propulsion, that require HEU. Others are located in countries such as China that so far have not cooperated with the United States on converting their reactors to LEU. Finally, the time and costs associated with developing LEU fuel for some of the reactors may exceed their expected lifetime and usefulness.

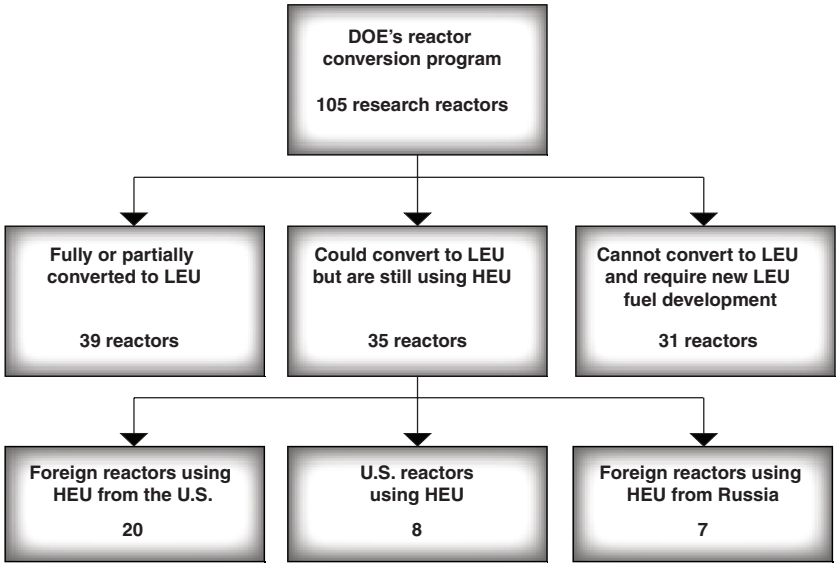
The United States has historically provided nuclear technology to foreign countries in exchange for a commitment not to develop nuclear weapons. Starting in 1953, the Atoms for Peace program supplied research reactors and the fuel needed to operate them to countries around the world. The research reactors supplied by the Atoms for Peace program initially used LEU fuel, but many countries gradually switched from LEU to HEU in order to conduct more advanced research. In addition, HEU fuel could remain in the reactor core longer and was less expensive than LEU fuel. By the late 1970s, most research reactors were using HEU fuel and the United States was exporting about 700 kilograms of HEU a year to foreign research reactors. Like the United States, the Soviet Union also exported research reactors and the HEU fuel to operate them to other countries.

In order to achieve the program's objective of reducing the use of HEU in civilian research reactors, Argonne is developing new LEU fuels in cooperation with counterparts in other countries, including Argentina, France, and Russia. Developing LEU fuels involves testing fuel samples in research reactors to determine how the fuels behave under normal operating conditions. Fuel manufacturers and reactor operators around the world participate in the program by manufacturing and testing LEU fuels. Owners of foreign research reactors fund conversion of their reactors from HEU to LEU. In 1993, Argonne expanded the reactor conversion program to include cooperation with Russia on the conversion of Russian-supplied research reactors to LEU fuel. The Soviet Union had independently initiated a program in 1978 to reduce the enrichment of HEU fuel in research reactors but suspended the program in 1989 due to lack of funding. Russian-supplied research reactors use fuels manufactured in

Russia that are not interchangeable with fuels used by U.S.-supplied research reactors. Therefore, DOE's reactor conversion program differentiates between U.S.-supplied and Russian-supplied research reactors.

Since the reactor conversion program's inception in 1978, 39 of the 105 research reactors included in the program have either converted or are in the process of converting to LEU fuel. (See app. II for a list of converted research reactors.)[4] Of the remaining 66 research reactors that still use HEU fuel, 35 can convert using currently available LEU fuels but have not done so, and 31 cannot convert to any currently available LEU fuels and still require HEU in order to conduct the research for which they were designed (see fig. 2).

Figure 2: Conversion Status of 105 Research Reactors Included in DOE's Reactor Conversion Program



Source: Argonne National Laboratory.

[4]In comments on a draft of this report, the State Department also noted that a growing number of new and planned research reactors have decided to use LEU fuel.

A research reactor can begin the conversion process after a suitable LEU fuel is developed and available commercially. The decision to convert from HEU to LEU also depends on research reactor owners having the necessary financial resources, including for the purchase of new fuel. In the United States, NRC regulations require that research reactors under its jurisdiction, including reactors operated by universities, convert to LEU fuel when an LEU fuel that can be used to replace HEU fuel has been developed and when federal funding is made available for the conversion.[5] The conversion process begins with analyses to determine whether the reactor can safely convert and the impact of conversion on the reactor's performance. After the analyses are completed and regulatory approval for conversion is obtained, the operator can remove the HEU from the reactor and replace it with the new LEU fuel. The HEU fuel can be disposed of once it has been removed from the reactor core and has cooled.

Many Domestic and Foreign Research Reactors Are Still Using Weapons-Usable Uranium Even Though They Could Operate on Low Enriched Uranium

According to Argonne's analysis, conversion to LEU fuel is technically feasible for 35 of the 66 research reactors worldwide that still use HEU fuel. However, only 4 of the reactors—3 foreign reactors that use U.S.-origin HEU and 1 Russian-supplied reactor—currently have plans to convert. Eight U.S. research reactors, including 6 university reactors, could convert to LEU fuel, but according to DOE officials, DOE has not provided the funding to convert them. In addition, DOE has not removed HEU fuel from a university research reactor that has been storing HEU since it converted to LEU in 2000. According to Argonne officials, of the 20 foreign research reactors that currently use U.S.-origin HEU fuel, 14 do not have plans to convert to LEU because they generally have a sufficient supply of HEU and either do not want to incur the additional cost of conversion or do not have the necessary funding. Finally, since DOE's reactor conversion program initiated cooperation with Russia in 1993, no research reactors that use HEU fuel supplied by Russia have converted. According to Argonne officials, only 1 of 7 Russian-supplied research reactors that could use LEU fuel is scheduled to convert. They said that 5 other Russian-supplied reactors are likely to convert to LEU fuels that are currently available or are expected to become available within the next year.

[5]10 C.F.R. § 50.64. The NRC regulates most of the U.S. research reactors included in DOE's reactor conversion program, with the exception of 4 DOE research reactors.

Eight Research Reactors in the United States Could Convert to Low Enriched Uranium but Still Use Weapons-Usable Uranium

In the United States, there are 6 university research reactors and 2 other research reactors that could convert to LEU fuel but still use HEU fuel. Although DOE has funded the conversion of 11 university research reactors to LEU fuel, the last university reactor converted in 2000. DOE officials said DOE has not provided the funding to convert the 6 remaining U.S. university reactors. DOE recently added 2 other domestic reactors to the reactor conversion program, and neither of these reactors currently has plans to convert to LEU, also because DOE has not provided the necessary funding. (See table 1 for a list of the 8 reactors.)

Table 1: U.S. Research Reactors Using HEU Fuel That Could Convert to LEU

Reactor
Oregon State University
Purdue University
Texas A&M University
University of Florida
University of Wisconsin
Washington State University
General Electric NTR Reactor
DOE NRAD Reactor

Source: Argonne.

Note: The amount of HEU fuel used by these research reactors ranges from 0 to 0.2 kilograms per year. Reactors that use zero kilograms of HEU per year use HEU fuel but operate at such low power levels that they use up the fuel very slowly and can operate for many years or for their entire lifetime without replacing fuel.

In addition, the university research reactor that converted to LEU in 2000 is still storing HEU fuel because DOE has not removed it. Because the reactor now uses LEU fuel and has no need for HEU, the reactor operator told us that he is eager to return the HEU to DOE for long-term storage and disposal. DOE has a separate program that supports university research reactors, including provision of DOE-owned fuel, and funds their conversion to LEU and removal of spent fuel.[6] According to the DOE

[6]DOE's Office of Nuclear Energy, Science and Technology administers the program for supporting domestic university reactors. The program has an annual budget of about $18 million and provides a variety of assistance such as research grants, tuition assistance for nuclear engineering students, and funding to upgrade reactor facilities.

official in charge of the university reactor support program, the program has limited funding, and requests for additional funding to support conversion have not been approved by the Office of Management and Budget. Furthermore, the university reactor support program did not receive additional funding to remove HEU fuel from the research reactor that converted to LEU in 2000 until fiscal year 2004, after a group of domestic research reactor operators successfully lobbied Congress to add $2.5 million to the program's budget to pay for the removal of spent fuel from the reactors.

Officials at NRC, which regulates the 6 university reactors, told us that they consider the conversion of the reactors to LEU, the timely removal of HEU fuel after conversion, and the removal of HEU from the reactor that converted to LEU in 2000 as a security enhancement and one of their priorities. NRC officials said that converting the 6 reactors is technically feasible and that the delay in converting the reactors is purely a matter of funding and should be expedited by DOE. However, DOE officials said that DOE had not made the conversion of these reactors a priority. Furthermore, while operators at all 6 universities told us they are willing to convert to LEU fuel, they said it is not a high priority because they do not consider their HEU fuel to be a likely target for theft. For example, one reactor operator explained that the reactor is structured in such a way that the HEU is located inside a concrete enclosure that even experienced reactor staff need almost 2 days to access. These 6 reactors use only a small amount of HEU fuel—less than a kilogram per year, which is not enough to make a nuclear weapon. In contrast, there are other research reactors included in DOE's reactor conversion program that are larger than the 6 university reactors and use tens of kilograms per year.

Nevertheless, operators of the 6 university research reactors said they would convert to LEU when DOE provides funding. Furthermore, the DOE official in charge of the university reactor support program said that converting domestic university reactors is an issue of U.S. nonproliferation policy. He said that converting domestic reactors to LEU would support U.S. efforts to influence foreign reactors to convert to LEU in accordance with the U.S. nonproliferation policy to reduce the use of HEU in civilian research reactors worldwide. Although they did not consider conversion a priority from a security perspective, two of the university reactor directors we spoke with recognized the importance of converting university reactors to LEU as part of U.S. nonproliferation policy.

According to DOE officials, conversion for each reactor is projected to cost between $5 million and $10 million. However, a project engineer at DOE's Idaho National Engineering and Environmental Laboratory who tracks DOE expenditures on conversions of U.S. university reactors had originally told us that conversion would cost between $2 million and $4 million per reactor, depending on the type of reactor. DOE could not provide documentation to support either of the estimates. DOE officials said that conversion costs for 4 of the university reactors are higher because their fuel is no longer manufactured in the United States and must be purchased in France.[7]

Other than funding, there are no significant obstacles to converting the 6 university reactors to LEU. Based on our visits to 3 converted university research reactors and interviews with Argonne officials and the operators of the 6 remaining university reactors, converting to LEU does not reduce the performance of the reactors to the point that they cannot be used to conduct research and train students effectively. Operators at 5 of the 6 university reactors still using HEU fuel told us they expected performance to be adequate after conversion. In addition, operators of converted reactors told us that using LEU instead of HEU reduced security concerns and had a minimal impact on the cost of operating the reactors. Argonne officials said that one of their objectives when providing technical assistance to convert reactors to LEU is to complete the process with only minimal effects on performance and operating costs. In fact, two reactor operators (one in Rhode Island and one in Massachusetts) told us that performance at their reactors had improved as a result of conversion.

According to Argonne officials, 2 other reactors in the United States (the DOE NRAD and General Electric NTR reactors) could convert to LEU but are not currently planning to do so. The officials said they recently added these 2 reactors to the scope of the reactor conversion program so that the program would be comprehensive in its coverage of civilian research reactors that use HEU. The NRAD research reactor is a DOE reactor, and DOE would have to fund the purchase of new LEU fuel if a decision were made to convert the reactor. According to a DOE official responsible for the reactor, the budget for the NRAD reactor is limited, and purchasing new LEU fuel to convert the reactor would take funding away from other

[7]If DOE provides funding for converting these 4 university reactors, the schedule depends on the ability of the French manufacturer to supply the fuel in a timely manner. However, the French supplier is not accepting new requests for reactor fuel until 2007.

activities at the facility where the reactor is located. The DOE official considers the conversion of this reactor a lower priority because it has a sufficient supply of HEU fuel to last for the life of the reactor and because the facility has other nuclear material that would be more attractive to terrorists than the HEU fuel in the reactor. The General Electric NTR is a privately owned reactor and is also not required to convert until DOE provides funding.

Twenty Foreign Research Reactors Continue to Use Weapons-Usable Uranium Fuel

Fourteen of the 20 foreign research reactors that currently use U.S.-origin HEU fuel do not have plans to convert to LEU. According to Argonne officials, these reactors generally have a supply of HEU sufficient to last many years (in some cases for the life of the reactor) and either do not want to incur the additional cost of conversion or do not have the necessary funding. Three of the reactors are planning to convert to LEU, and 3 others currently plan to shut down (or, in the case of 2 reactors, convert to LEU fuel if they do not shut down). See table 2 for a list of the 20 reactors.

Table 2: 20 Foreign Research Reactors Still Using HEU Obtained from the United States

Country	Reactor	Status
Argentina	RA-6	Conversion planned
Canada	Slowpoke-Alberta	
	Slowpoke-Halifax	
	Slowpoke-Saskatchewan	
France	MINERVE	
	Ulysee-Saclay	
Germany	FRJ-2	Conversion planned
Israel	IRR-1	Shutdown planned
Jamaica	Slowpoke	
Japan	KUCA	
	UTR-10 Kinki	
	KUR	Shutdown or conversion planned
Mexico	TRIGA	
Netherlands	HFR Petten	Conversion planned
	LFR	
Portugal	RPI	Shutdown or conversion planned

(Continued From Previous Page)

Country	Reactor	Status
South Africa	SAFARI	
United Kingdom	Consort	
	Neptune	
	Viper	

Source: Argonne.

Note: The amount of HEU fuel used by these research reactors ranges from 0 to 38.3 kilograms per year. Reactors that use zero kilograms of HEU per year use HEU fuel but operate at such low power levels that they use up the fuel very slowly and can operate for many years or for their entire lifetime without replacing fuel.

Some of the foreign research reactors would like to convert but do not have the necessary funding. For example, the operator of a research reactor in Jamaica told us that converting to LEU would improve the reactor performance but that purchasing LEU fuel for the reactor would cost $1.5 million, which is more than the reactor operator can afford. Therefore, the reactor operator is planning to continue using its current supply of HEU, which will last possibly 20 years. Similarly, according to Argonne officials, the reactor operator in Mexico would be willing to convert to LEU but does not have the necessary funding. While funding may not be an issue for other foreign reactors, many of them are designed to operate on a small amount of fuel meant to last for the life of the reactor. Converting to LEU would require the disposal of the fuel that the reactor operator had already purchased and is still usable. According to Argonne officials, operators of certain reactors in France, Japan, the Netherlands, and the United Kingdom do not have plans to convert because the reactors have lifetime cores that do not need to be replaced.

To support the objective of the reactor conversion program to reduce and eventually eliminate the use of HEU in research reactors, the United States has implemented policies designed to influence foreign research reactors to convert to LEU. For example, DOE's Foreign Research Reactor Spent Nuclear Fuel Acceptance program provides foreign reactors that use HEU fuel of U.S.-origin the opportunity to return their spent fuel to the United States if they agree to convert their reactors to LEU fuel. In addition, the Energy Policy Act of 1992 authorizes NRC to approve the export of HEU to foreign research reactors only if the recipients agree to convert the reactors once a suitable LEU fuel is developed.[8] Since there are limited suppliers of HEU fuel and few options for disposing of spent fuel, the U.S.

[8]42 U.S.C. § 2160d.

policies in support of the reactor conversion program have been effective in influencing some research reactors to convert to LEU. In particular, of the 20 foreign reactors that can convert to LEU but are still using HEU, the 2 that use the greatest amount of HEU per year are planning to convert by 2006. One research reactor in the Netherlands (HFR Petten) formally agreed with the United States to convert to LEU in order to continue receiving U.S.-origin HEU fuel until conversion could take place and to ship spent fuel back to the United States. The U.S. policies in support of conversion were effective in influencing the reactor operator because the reactor uses 38 kilograms of HEU fuel per year and regularly needs to obtain new HEU fuel and dispose of spent fuel. Similarly, the FRJ-2 reactor in Germany has an agreement with DOE to convert to LEU fuel as a condition of returning spent fuel to the United States.

However, U.S. policies in support of the reactor conversion program do not influence foreign reactors using so little HEU that they can operate for many years without replacing their fuel or disposing of spent fuel. While Argonne provides technical assistance for conversion, current DOE policy precludes purchasing new LEU fuel for foreign reactors that use U.S.-origin HEU fuel. Under this policy, purchasing new LEU fuel—which, according to a DOE project engineer, is the main cost of conversion—is the responsibility of the reactor operator. According to a DOE official, DOE has paid for new LEU fuel only once, in Romania, in exchange for the return of Russian-origin HEU fuel to Russia. DOE spent $4 million to purchase LEU fuel for the Romanian reactor, which is still only partially converted and requires more LEU fuel before conversion is complete. DOE officials said that current DOE policy allows purchasing LEU fuel for research reactors that use Russian-origin HEU fuel in exchange for returning the HEU to Russia. However, DOE does not have a similar policy for research reactors that use U.S.-origin HEU fuel. DOE officials said they are considering revising this policy to allow purchasing LEU fuel for U.S.-supplied research reactors.

Only One of Seven Russian-Supplied Reactors That Can Use Low Enriched Uranium Is Scheduled to Convert

According to Argonne officials, 7 Russian-supplied research reactors, all located outside Russia, could convert using LEU fuels that are currently available or are expected to become available within the next year. However, only 1 of the 7 reactors, located in Ukraine, is scheduled to convert.[9] (See table 3 for a list of the 7 reactors.)

Table 3: Seven Foreign Research Reactors Using HEU from Russia That Could Convert to LEU

Country	Reactor
Bulgaria	IRT-Sofia
Germany	ZLFR
Hungary	VVR-SZM
Libya	IRT-1
Libya	Critical Facility
Ukraine	VVR-M
Vietnam	DRR

Source: Argonne.

Note: The amount of HEU fuel used by these research reactors ranges from 0 to 13.9 kilograms per year. Reactors that use zero kilograms of HEU per year use HEU fuel but operate at such low power levels that they use up the fuel very slowly and can operate for many years or for their entire lifetime without replacing fuel.

The Ukrainian reactor operators told us that they expect to begin conversion to LEU at the end of 2004 at the earliest and that they are currently analyzing the safety of converting to LEU with the assistance of DOE's reactor conversion program. Unlike many of the U.S.-supplied research reactors that are not planning to convert because they have an adequate supply of HEU, the Ukrainian reactor is running out of HEU fuel and will have to place an order for new fuel by the end of 2004. The reactor operators told us they support conversion to LEU fuel because the negative impact on the reactor's performance will be tolerable, the operating costs will be about the same after conversion to LEU, and converting to LEU would eliminate the threat that HEU could be stolen from the facility. The reactor operators are scheduled to complete the safety analysis in

[9]The reactor conversion program includes 28 Russian-supplied reactors—14 in Russia and 14 outside Russia (primarily in countries of the former Soviet Union and Eastern Europe). Conversion of 21 of the reactors, including the 14 in Russia, requires development of new LEU fuels.

November 2004 and then submit an application to obtain approval for conversion from the Ukrainian nuclear regulatory authority. However, Argonne officials said the schedule for converting the Ukrainian reactor is ambitious and conversion of the reactor could be delayed. According to Argonne officials, if the Ukrainian reactor does not get regulatory approval for conversion to LEU before it runs out of fuel, it may decide to place an order with the Russian supplier for more HEU fuel instead.

According to DOE officials, 5 other Russian-supplied reactors that can use LEU fuel are likely to convert. Conversion of the reactors in Bulgaria and Libya depends on the commercialization of the Russian-origin LEU fuel, which DOE expects to take place in 2004. DOE has also engaged in discussions on conversion with the operators of the research reactor in Vietnam. According to Argonne officials, conversion of the research reactor in Hungary requires at least several more years of analysis. In particular, the reactor must test an LEU fuel sample before the Hungarian government approves conversion, and this process will take several years. Argonne officials said the research reactor in Germany has a sufficient supply of HEU fuel and therefore is not planning to convert to LEU.

Technical Setbacks in Developing New Fuels Limit Progress in Converting the Largest Remaining Research Reactors

Technical setbacks in developing new LEU fuels have postponed the conversion of 31 research reactors worldwide that cannot use currently available LEU fuels until 2010 at the earliest. Argonne is pursuing the development of LEU dispersion fuel and LEU monolithic fuel to convert these reactors. Argonne officials said the failures during testing of dispersion fuel are the worst they have ever experienced during fuel development. As a result, Argonne has delayed completion of dispersion fuel until 2010 and may recommend that DOE cancel further development altogether if solutions cannot be found. This would leave the reactor conversion program with only one alternative LEU fuel—monolithic fuel. According to Argonne officials, monolithic fuel has performed well in the one test conducted so far. However, many more tests are required. Because of lessons learned from dispersion fuel failures, Argonne recently delayed the projected completion date of monolithic fuel from 2008 to 2010 in anticipation of the need for additional tests. Argonne officials said they have compressed the development schedule of both dispersion and monolithic fuel as much as possible and any further technical problems will result in additional delays. Moreover, Argonne is focusing all LEU fuel development efforts on dispersion and monolithic fuel, and if both fuels fail, no LEU fuel will be available to convert the remaining reactors in the reactor conversion program.

DOE May Cancel Development of One Low Enriched Uranium Fuel That Has Had Significant Problems

The 31 research reactors worldwide that cannot convert to currently available LEU fuels include some of the largest reactors in terms of amount of HEU used per year. Argonne officials estimate the reactors use a total of about 728 kilograms of HEU per year. Many of the 31 reactors are used to conduct advanced scientific research that could not be done if they were to convert to currently available LEU fuels. Representatives of 8 of the research reactors told us they need HEU fuel to operate and conduct research until LEU fuel with the right performance characteristics is developed. (See table 4 for a list of the 31 reactors.)

Table 4: 31 Research Reactors That Cannot Convert Using Currently Available LEU Fuels

Country	Reactor
Belgium	BR-2
Czech Republic	LWR-15
	VR-1
France	ORPHEE
	RHF
Germany	FRM-II
Kazakhstan	VVR-K
	VVR-K Critical Facility
North Korea	IRT-DPRK
Poland	MARIA
Russia	IRT-MEPhI
	IR-8
	IRT-T
	VVR-TS
	VVR-M
	IVV-2M
	MIR-M1
	CA.MIR-M1
	SM-3
	CA.SM-3
	RBT-6
	RBT-10/2
	PIK
	PIK Physical Model

(Continued From Previous Page)

Country	Reactor
United States	Massachusetts Institute of Technology (MITR)
	University of Missouri (MURR)
	National Institute of Standards and Technology (NBSR)
	DOE HIFR
	DOE ATR
	DOE ATRC
Uzbekistan	VVR-CM

Source: Argonne.

Notes: The amount of HEU fuel used by these research reactors ranges from 0 to 120 kilograms per year. Reactors that use zero kilograms of HEU per year use HEU fuel but operate at such low power levels that they use up the fuel very slowly and can operate for many years or for their entire lifetime without replacing fuel.

Research reactors located in the Czech Republic, Kazakhstan, North Korea, Poland, Russia, and Uzbekistan are Russian-supplied reactors.

DOE's reactor conversion program has run into problems in developing new LEU fuels intended to replace HEU in these research reactors. The most serious problems have occurred in tests of dispersion fuel, the development of which began in 1996. According to Argonne officials, dispersion fuel would be usable in the Russian-supplied research reactors and 1 U.S. reactor.[10] Most recently, tests of the dispersion fuel have revealed weaknesses that would make the fuel unsuitable for use in research reactors. In particular, when samples of dispersion fuel were tested in research reactors, the fuel failed unexpectedly under reactor operating conditions the fuel was designed to withstand.

A number of factors illustrate the seriousness of the problems with the dispersion fuel. First, according to Argonne officials, the same problems have been encountered in separate tests and under different operating conditions in reactors in the United States, Belgium, France, and Russia. Second, the problems were unexpected and worse than encountered in

[10]The development of LEU dispersion fuel also has important consequences for U.S.-supplied foreign research reactors that have already converted to LEU and participate in the Foreign Research Reactor Spent Nuclear Fuel Acceptance program. Many of these reactors had planned to switch to LEU dispersion fuel from the LEU fuel they are currently using because spent dispersion fuel could be disposed of through reprocessing. With the program scheduled to stop accepting fuel in 2009 and development of dispersion fuel delayed until 2010, foreign research reactors that have already converted to LEU fuel that cannot be reprocessed may not have a way to dispose of spent fuel. We will address this issue in more detail in a forthcoming report on the program.

previous LEU fuel development efforts. Finally, if the failures were serious enough, the fuel could leak radioactive material into the reactor coolant and cause facility contamination. If this occurred, the dispersion fuel would not be approved for use in research reactors.

Argonne officials said that, as a result of these test failures, they have delayed projected completion of dispersion fuel from 2006 until 2010 to allow time for additional development and testing. Argonne officials plan to pursue options to modify dispersion fuel to make it resistant to failures. However, they said they would also consider recommending that DOE cancel further development of dispersion fuel if it is determined the fuel cannot be sufficiently improved. In addition, because of the problems encountered in the development of dispersion fuel, Argonne has shifted its primary focus to the development of monolithic fuel.

More Time Is Needed to Develop an Alternative Low Enriched Uranium Fuel

Initial testing of monolithic fuel has produced positive results under the same operating conditions under which dispersion fuel failed. According to Argonne officials, if they are successful in developing monolithic fuel, it will offer better reactor performance than dispersion fuel and could be used to convert the remaining research reactors in the reactor conversion program to LEU.

Nevertheless, the successful development of this fuel is still uncertain, and Argonne has not yet demonstrated that all remaining research reactors still using HEU could convert to it. Argonne officials said they began developing monolithic fuel relatively recently, in 2000, and to date have conducted only one test. Additional testing could reveal problems that have not yet surfaced. Furthermore, this fuel requires development of a new manufacturing method because the methods used to manufacture other research reactor fuels are not suitable for monolithic fuel. Argonne is conducting research on different manufacturing options but has not yet demonstrated that monolithic fuel can be manufactured on a large scale. Three reactor operators hoping to convert to this fuel told us it is impossible to predict whether the new LEU fuel will be successfully developed and that creating a reliable LEU fuel could take many years more than expected.

Development of monolithic fuel may be delayed if Argonne encounters any problems in the fuel development process. Argonne officials said they have already delayed projected completion from 2008 to 2010 to allow time for additional testing. The schedule for developing monolithic fuel does not

factor in any technical problems that may occur during testing but rather assumes that every phase of development will be successful. Argonne officials said they have already compressed the schedule as much as possible and that it would be difficult to significantly accelerate fuel development any further because each set of tests requires a fixed amount of time. The officials also stated that fuel development would have been delayed even further had Congress not increased funding for the reactor conversion program from $6.1 million in fiscal year 2003 to $8.5 million in fiscal year 2004, which enabled Argonne to pursue a more aggressive fuel development schedule. Assuming no further delays in fuel development, Argonne officials said the first research reactors could begin ordering new LEU for conversion within 6 months of completing the development of either dispersion fuel or monolithic fuel in 2010.

Support for Conversion to Low Enriched Uranium Fuel Varies among Research Reactor Operators

In our visits to foreign and domestic research reactors that cannot convert to currently available LEU fuels, we found that reactor operators' response to the prospect of conversion to LEU fuels varies widely. For example, the operator of the BR-2 reactor in Belgium said it had agreed to convert to LEU when feasible as a condition for continuing to receive U.S.-origin HEU fuel. In contrast, a new German reactor at the Technical University Munich designed to use HEU (the FRM-II reactor) may still not be able to convert to LEU even if Argonne is successful in developing monolithic fuel. The reactor operator has agreed to convert to a lower enrichment of HEU that is less usable in nuclear weapons. However, during our visit to the reactor, the operator said it had no plans to convert the reactor to LEU fuel because conversion would require expensive reconstruction.

Argonne has contracted with Russia to work jointly on development of new LEU fuels, but DOE has not negotiated a formal agreement with the Russian government to convert research reactors in Russia to LEU. DOE's reactor conversion program includes 14 research reactors operating in Russia that, combined, use 225 kilograms of HEU fuel per year. In 2002, the Secretary of Energy and Russia's Minister of Atomic Energy issued a joint statement identifying acceleration of LEU fuel development for both Russian-supplied and U.S.-supplied research reactors as an area where joint cooperation could lead to reduction in the use of HEU. However, the Russian officials responsible for developing LEU fuels told us they are focusing on converting Russian-supplied reactors in other countries first. The officials also do not consider the conversion of research reactors in Russia to LEU a priority because security has been improved at the reactors and the reactors need HEU fuel to conduct advanced research.

Furthermore, Russian officials told us that under Russian law, operators of HEU reactors in Russia are not required to convert to LEU. In fact, since 1986, Russia has been building a new research reactor that is designed to use HEU fuel rather than LEU.

Three U.S. research reactors (at the Massachusetts Institute of Technology, the University of Missouri, and the National Institute of Standards and Technology) where conversion is not currently feasible fall under NRC regulations that would require conversion to LEU if the reactor conversion program is successful in developing new LEU fuels.[11] Furthermore, the Secretary of Energy committed to the conversion of all U.S. research reactors by 2013 in a speech on May 26, 2004. However, without federal funding to support the conversion, the reactors may continue to use HEU. For example, the operator of the Massachusetts Institute of Technology reactor said that conversion to LEU could be delayed even after a new LEU fuel is developed if DOE does not provide funding in a timely manner.

Using Low Enriched Uranium for Medical Isotope Production Is Feasible, but Concerns over Cost Could Limit Its Use

The reactor conversion program has demonstrated the potential for using LEU to produce medical isotopes on a small scale, but large-scale producers are concerned that the cost of conversion could be prohibitive. With assistance from the reactor conversion program, one reactor in Argentina used for the production of medical isotopes converted from HEU to LEU in 2003. However, Argonne officials said the conversion was feasible only because the reactor produces medical isotopes on a small scale, using a relatively small amount of material in the production process. (Prior to converting to LEU, the Argentine reactor used less than a kilogram of HEU per year. In contrast, four large medical isotope producers targeted by the reactor conversion program, located in Belgium, Canada, the Netherlands, and South Africa, each use as much as 25 kilograms of HEU per year.) Argonne is still working to overcome problems with using LEU that limit the ability of the Argentine reactor to increase its production capacity.

Argonne officials said they are 2 to 3 years away from completing work that would allow the large medical isotope producers to convert from HEU to LEU. Argonne officials said they have developed LEU materials that can be used by all medical isotope producers and only the adaptation of the

[11] 10 C.F.R. § 50.64.

production processes from using HEU to LEU remains. They said that adapting the medical isotope producers' processes, each of which is unique in some aspect, is technically feasible and is just a matter of time. One reason why the production processes must be modified is that almost five times more LEU than HEU is required to produce the same amount of medical isotopes. The increased amount of nuclear material creates obstacles to conversion. For example, using LEU would produce more waste, which in turn could increase the burden of treating and storing the waste. In addition, the facilities, chemical processes, and waste management systems for producing medical isotopes are customized to use HEU and would require modifications to accommodate LEU.

In discussions with the two large medical isotope producers in Belgium and Canada, both cited a number of factors that would make conversion to LEU costly and difficult, including the fivefold increase in the amount of LEU that would be required to achieve the same level of output when using HEU. As part of its technical analysis, the Canadian producer is currently conducting an assessment of converting to LEU to determine whether conversion would be economically feasible. The Canadian producer currently uses U.S.-origin HEU and, under U.S. law, must agree to convert to LEU when a suitable LEU alternative is developed.[12] (The other three large medical isotope producers currently receive their HEU from countries other than the United States and are therefore not subject to U.S. requirements to convert to LEU.) U.S. law also allows for an exception to the requirement to convert to LEU if conversion would result in a large percentage increase in operating costs. Officials at DOE and NRC, which implements the law governing U.S. HEU exports, acknowledge that medical isotope producers operate on small profit margins, and as a result, the cost of converting to LEU may be prohibitive. However, Argonne officials said that conversion to LEU could result in a more economic process. DOE officials said they would not accept a statement by the Canadian producer that conversion of medical isotope production to LEU is not economically feasible without documentation to support that conclusion.

[12]42 U.S.C. § 2160d.

DOE and NRC Are Addressing Security at Foreign and Domestic Research Reactors

Research reactor operators at most reactors we visited said that security had been improved because of DOE or NRC efforts. However, DOE and NRC have recognized the need to further improve security at research reactors throughout the world, including in the United States, and are engaged in separate efforts to assess research reactor security and its effectiveness.

At the foreign research reactors we visited, we observed security improvements to storage areas for HEU fuel, systems for controlling personnel access to the reactors, and alarm systems, including motion detectors and camera monitoring. DOE provided assistance to some of the foreign reactors to make the security improvements; other reactor operators had made the improvements with their own funding based on DOE recommendations. At U.S. research reactors, we saw physical security improvements around the reactor buildings, such as new fences and concrete barriers. Several operators of university research reactors told us they were using funding from DOE's university reactor support program to purchase new security equipment.

We also observed areas where further improvement could be made. For example, we visited one foreign research reactor's facility for storing spent HEU fuel where DOE had provided only minimal assistance to improve security. According to DOE officials, DOE has generally not provided assistance to improve the security of spent HEU fuel because it is radioactive and too dangerous for potential terrorists to handle. DOE has placed a higher priority on protecting fresh fuel—fuel that has not been irradiated in a reactor—because it is easier to handle. However, operators of the fuel storage facility said that the spent fuel had been in storage for a long time and had lost enough radioactivity to be handled and potentially stolen.

During a visit to another foreign research reactor, we observed a new alarm system monitoring the entrance to the reactor building, a fresh fuel vault, and motion detectors that had been installed with DOE assistance. DOE is in the process of adding further enhancements to the security of the facility. However, we also observed that the fence surrounding the facility was in poor condition, security guards at the front gate were unarmed, and there were no guards at the reactor building, which we entered without escort. At another research reactor, DOE identified security weaknesses and offered assistance to make security improvements. However, according to the U.S. embassy in the country where the reactor is located,

the improvements had not been made as of March 2004 because the reactor operator did not act on DOE's offer of assistance. We discussed examples that raised questions about security of foreign research reactors with DOE officials during meetings on March 12 and 22, 2004, and they agreed that DOE needs to do more to address potential security concerns.

Recognizing that the security at some research reactors may need to be improved, DOE established a task force in 2004 to identify the highest risk reactors and to develop options for improving security at reactors believed to be of greatest concern. The task force is currently gathering information on all research reactors worldwide, including reactors that are shut down, and prioritizing them based on a number of factors, including how much HEU is stored on site, the vulnerability of the reactors to theft of HEU or sabotage, plans for conversion to LEU and removal of HEU fuel, and the potential terrorist threat to countries where the reactors are located. The scope of the initiative comprises 802 research reactors and associated facilities, including 128 facilities possessing 20 kilograms or more of HEU on site.[13] DOE officials said the task force addresses the need to combine and coordinate information from different sources within DOE, which did not have a comprehensive database prior to the task force to document visits and security observations made by various DOE program officials to foreign research reactors. According to DOE officials, the task force has submitted a report to the Secretary of Energy with recommendations for possible implementation by DOE, such as expediting conversion to LEU and providing additional assistance to foreign research reactors to improve security. According to task force members, security assistance to foreign reactors could be provided by DOE, the International Atomic Energy Agency, or countries other than the United States.

NRC is also engaged in efforts to assess and improve the security at the U.S. research reactors it regulates. NRC took actions after the attacks of September 11, 2001, to improve security at U.S. research reactors—for example, by requiring some reactor operators to consider installing additional physical barriers and strengthening screening requirements for entrance to facilities. In addition, NRC is conducting assessments of the security at the research reactors it regulates and may increase security

[13]The task force is looking at all research reactors worldwide, while the reactor conversion program targets operating research reactors that use HEU. Not every research reactor that possesses HEU is part of the conversion program because some of the reactors have military applications that require HEU fuel or use a unique HEU fuel that would require a separate LEU fuel development effort.

requirements based on the results of the assessments. According to NRC officials, the agency's security evaluations of U.S. research reactors will be completed in December 2004. Based on the results of the evaluations, NRC will decide to strengthen current regulations, leave regulations as they are, or address security concerns at each reactor on a case-by-case approach.

Conclusions

While several research reactors are scheduled to convert to LEU fuel in the next few years, progress in converting many remaining reactors has stalled. In part, converting these reactors is a matter of completing development of new LEU fuels, which has been delayed by unforeseen technical problems. However, if DOE's reactor conversion program is to achieve its objective to reduce and eventually eliminate the use of HEU in civilian research reactors, DOE may need to re-evaluate its policies with regard to the program. Many of the research reactors that could use currently available LEU fuels have not converted because they lack incentives, funding, or both. Until recently, the policy of DOE's reactor conversion program has been to provide technical assistance to support conversion of research reactors to LEU but not to pay for conversion or, in particular, purchase new LEU fuel. In the case of six U.S. university reactors, DOE has not made purchasing LEU fuel for conversion (and completing the conversion process at another reactor by removing HEU fuel and shipping it to a DOE facility for disposal) a high priority. While many of the U.S. reactors that could convert to LEU use only a small amount of HEU per year, converting them would demonstrate DOE's commitment to the nonproliferation objective of the reactor conversion program.

DOE has generally expected the operators of foreign research reactors that use U.S.-origin HEU fuel to purchase new LEU fuel with their own funds. The policies DOE has relied on to influence operators to convert to LEU—requiring that reactor operators agree to convert as a condition of receiving U.S. HEU exports or returning spent fuel to the United States—do not work for reactors using so little HEU that they can operate for many years without replacing their fuel. Without funding for conversion, it is possible these reactors could continue using HEU for years. DOE may need to consider offering additional incentives to foreign reactors, including purchasing new LEU fuel, to influence them to convert to LEU.

Regardless of progress in converting domestic and foreign research reactors to LEU in the near term, delays in completing the development of new LEU fuels mean that other research reactors will continue to use HEU until at least 2010. If the reactor conversion program experiences

additional problems in one or both of the two LEU fuels currently under development, some research reactors could be left without a viable option for conversion to LEU. Given the continuing use of HEU at these research reactors, DOE and NRC efforts to evaluate and improve reactor security are essential components of the overall effort to reduce the risk of proliferation of HEU at civilian research reactors.

Recommendations for Executive Action

In order to further reduce the use of HEU in research reactors in the United States and abroad, we recommend that the Secretary of Energy and the Administrator of the National Nuclear Security Administration take the following three actions:

- consider placing a higher priority on converting the six remaining university research reactors in the United States that can use currently available LEU fuel;
- once a reactor has been converted, place a high priority on removing the HEU fuel and transporting it to the appropriate DOE facility; and
- evaluate the costs and benefits of providing additional incentives to foreign research reactors that use U.S.-origin HEU fuel to convert to LEU, particularly to reactor operators that are willing to convert but do not have sufficient funding to do so.

Agency Comments and Our Evaluation

We provided draft copies of this report to the Departments of Energy and State and to NRC for their review and comment. Comments from the Departments of Energy and State are presented as appendixes III and IV, respectively. NRC's written comments were not for publication. DOE, State, and NRC generally agreed with the recommendations in our report and provided detailed comments, which we incorporated into the report as appropriate.

In its comments, DOE noted that the United States has 11 more research reactors to convert to the use of LEU fuels, with conversion currently feasible for 6 of the reactors. However, DOE's February 2004 project execution plan for its reactor conversion program identifies 14 U.S. research reactors still using HEU fuel that are included in DOE's reactor conversion program, with conversion currently feasible for 8 of the

reactors. We used the number of reactors from DOE's project execution plan in our report.

In its comments, State questioned DOE's cost estimate for converting U.S. research reactors where conversion to LEU fuel is currently feasible. State noted that DOE's cost estimate of $5 million to $10 million per reactor where conversion to LEU fuel is currently feasible seems much too high, especially in comparison with DOE's expenditures of about $0.4 million to $1.6 million per reactor to convert 11 U.S. university reactors to LEU fuel between 1984 and 2000. State wrote that the DOE office that administers the program for supporting U.S. university research reactors has been reluctant to fund the conversion of more research reactors and has a tendency to overstate the potential costs to deflect pressure to spend money on conversions. We asked DOE officials what support they had for the cost estimate. In response, a DOE official said that DOE does not have documentation to support its cost estimate.

In another comment, State suggested we include recognition of the growing number of new and planned research reactors around the world that have been designed to use LEU fuel. State wrote that modern world-class reactors do not need HEU fuel to conduct high-quality research. DOE officials also provided information on the use of LEU fuel in new research reactors constructed since the inception of its reactor conversion program in 1978. Although our report does not focus on new research reactors designed to use LEU fuel, we agree that this is a positive development in keeping with the objective of DOE's reactor conversion program and we added a footnote recognizing these new reactors.

Scope and Methodology

To review the progress of the reactor conversion program, we analyzed program documentation, including DOE's February 2004 *RERTR Program Project Execution Plan*. We also interviewed key DOE, Argonne, NRC, and State Department officials; conducted site visits to foreign and U.S. research reactors and interviewed reactor operators by telephone; and attended an annual international conference organized by DOE's reactor conversion program.

For site visits and telephone interviews, we selected foreign and domestic research reactors from three categories: reactors that had converted to LEU, reactors that could convert using currently available LEU fuels but were still using HEU, and reactors that could not convert using currently available LEU fuels. Within each of the three categories of reactors, we selected a nonprobability sample of reactors based on a number of criteria such as reactor types, including U.S.-supplied reactors, Russian-supplied reactors, and reactors that use HEU in the production of medical isotopes.[14] We visited 5 research reactors in the United States, including 3 that had converted to LEU and 2 that cannot convert to currently available LEU fuels and are still using HEU. We conducted phone interviews with reactor operators from 1 other U.S. reactor that cannot use currently available LEU fuels and all 6 of the U.S. university research reactors that can convert to LEU but are still using HEU. We also visited 10 foreign research reactors in Belgium, Germany, the Netherlands, Poland, Portugal, Romania, Russia, and Ukraine. These included 2 converted reactors, 4 reactors that can use LEU fuel but have not yet converted, and 4 reactors that still require HEU. (See table 5.)

Table 5: Number of Research Reactors Selected for Site Visits or Phone Interviews

	U.S.-supplied		Russian-supplied		
Reactor status	**In the U.S.**	**Abroad**	**In Russia**	**Abroad**	**Total**
Converted	3 of 11	2 of 28	-	-	**5 of 39**
Convertible	8 of 8	3 of 20	-	1 of 7	**12 of 35**
Not yet convertible	4 of 6	2 of 4	2 of 14	1 of 7	**9 of 31**
Total	**15 of 25**	**7 of 52**	**2 of 14**	**2 of 14**	**26 of 105**

Source: GAO.

In our site visits and telephone interviews, we asked a standard set of questions (depending on the conversion status of the reactor) on technical aspects of converting to LEU, cost of conversion, impact of conversion on reactor performance, and assistance provided by DOE's reactor conversion program.

[14]Results from nonprobability samples cannot be used to make inferences about a population because, in a nonprobability sample, some elements of the population being studied have no chance or an unknown chance of being selected as part of the sample.

To review the progress in developing new LEU fuels for use in research reactors, we conducted in-depth interviews with Argonne officials responsible for managing LEU fuel development; operators of reactors that plan to convert to new LEU fuels when they are developed; and fuel development experts at the Bochvar Institute in Russia, which is collaborating with Argonne. At the annual international conference organized by DOE's reactor conversion program, we participated in sessions on LEU fuel development, and we reviewed technical papers on the progress of fuel development. For technical expertise, we relied on GAO's Chief Technologist, who participated in meetings with Argonne officials and reviewed the information that Argonne provided. We used the interviews and annual conference to also review progress in the development of LEU for use in the production of medical isotopes. In addition, we interviewed two of the four large medical isotope producers (in Belgium and Canada) that are currently using HEU to produce medical isotopes and that would be candidates for conversion to LEU once Argonne completes development.

To gather information on DOE and NRC efforts to improve research reactor security, we interviewed officials at those agencies and discussed security improvements with reactor operators we interviewed. We also observed security improvements at research reactors we visited. However, we did not evaluate the effectiveness of the security at research reactors or DOE and NRC efforts to improve security.

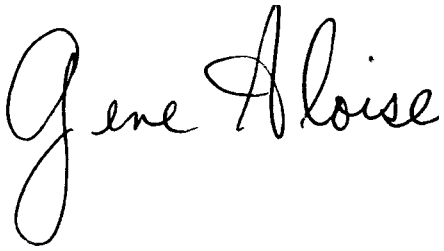
We obtained data from DOE and Argonne on the conversion status of the 105 research reactors included in the reactor conversion program, the amount of HEU used per year by the 105 reactors (including the amount used prior to conversion for the 39 research reactors now using LEU), and DOE expenditures for the reactor conversion program since its inception in 1978. All amounts are in constant 2003 dollars, unless otherwise noted. We assessed the reliability of data we obtained through discussions with Argonne officials. We also obtained responses from Argonne officials to a series of data reliability questions covering issues such as quality control procedures and the accuracy and completeness of the data. Based on our assessment, we determined that the data we obtained from DOE and Argonne was sufficiently reliable for our purposes.

We conducted our work from July 2003 to July 2004 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Secretary of Energy; the Administrator, National Nuclear Security Administration; the Secretary of State; the Chairman, NRC; the Secretary of Homeland Security; the Director, Office of Management and Budget; and interested congressional committees. We will also make copies available to others upon request. In addition, this report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please call me at (202) 512-3841. Key contributors to this report include Joseph Cook, Jonathan McMurray, Kirstin B.L. Nelson, Peter Ruedel, F. James Shafer Jr., and Keith Rhodes, GAO's Chief Technologist.

Sincerely yours,

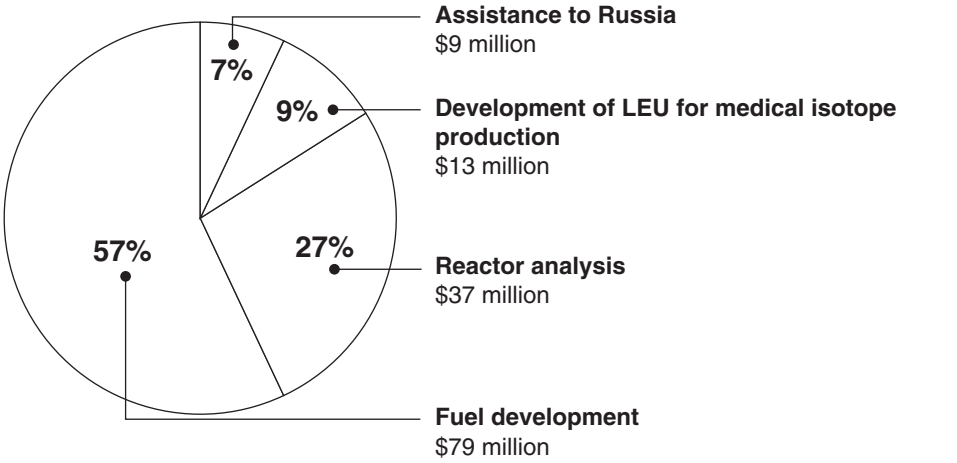


Gene Aloise
Acting Director, Natural
Resources and Environment

Reactor Conversion Program Expenditures and Projected Costs

DOE estimates that the reactor conversion program will cost approximately $213 million through the program's projected end in 2012.[1] Expenditures since the program's inception in 1978 through fiscal year 2003 totaled approximately $139 million in constant 2003 dollars. (See fig. 3.)

Figure 3: Reactor Conversion Program Expenditures, Fiscal Years 1978 to 2003



Source: GAO analysis of Argonne National Laboratory data.

Costs for the reactor conversion program are broken into four categories:

- Fuel development includes all of the activities associated with testing and analyzing new LEU fuels, such as the LEU dispersion and monolithic fuels that are currently under development. This activity also includes developing the methods for manufacturing new LEU fuels. Most of the reactor conversion program costs over the life of the program are in this category.

- Reactor analysis includes studying the conversion of individual research reactors, both domestic and foreign, once a suitable LEU has been developed. For example, Argonne provides technical assistance to research reactors to determine the impact of conversion on the reactors' performance and safety. This category does not include the cost of

[1]Dollar figures cited throughout appendix I are in constant 2003 dollars, unless otherwise noted.

purchasing LEU fuel for research reactors. For example, the responsibility for purchasing LEU fuel for U.S. university reactors belongs to another program in DOE that is separate from the reactor conversion program.

- Development of LEU for medical isotope production includes activities associated with testing and analyzing LEU materials to replace HEU in the production of medical isotopes. This activity also includes development of manufacturing and waste management processes for using LEU instead of HEU and technical assistance to medical isotope producers.

- Assistance to Russia includes funding to support research and development on new LEU fuels for Russian-supplied reactors. It also includes analysis of the impact of conversion to LEU on Russian-supplied reactors. The assistance to Russia was previously funded through a one-time grant of approximately $1.7 million, about two-thirds of which has been spent, from the State Department's Nonproliferation and Disarmament Fund (NDF).

In addition to the $139 million spent by the reactor conversion program, DOE's university reactor support program spent approximately $10 million between 1984 and 2000 to convert 11 university research reactors in the United States, according to an official at the Idaho National Engineering and Environmental Laboratory (INEEL). The cost of converting each reactor varied from around $400,000 to $1.6 million and was primarily for the cost of fabricating the fuel. The costs varied depending on the type of fuel and where it was manufactured.

DOE's projected costs for completing the reactor conversion program total about $74.7 million.[2] (See table 6.) This amount includes $26.3 million for reactor analysis, $25.8 million for fuel development, $4.8 million for the development of LEU for medical isotope production, and $17.8 million for assistance to Russia.

[2]The projected costs for the reactor conversion program are not in constant 2003 dollars. Argonne adjusted these costs for inflation with an increase of 5 percent for every year after 2004 and using 2004 as the base year.

Table 6: DOE's Projected Costs to Complete the Reactor Conversion Program (in thousands)

Fiscal Year	Reactor analysis	Fuel development	Development of LEU for medical isotope production	Assistance to Russia	Total
2004	$1,125	$4,122	$890	$2,404	**$8,541**
2005	1,586	4,286	946	2,709	**9,527**
2006	1,494	3,426	1,000	3,604	**9,523**
2007	1,692	4,526	986	2,917	**10,121**
2008	3,259	3,023	638	1,984	**8,904**
2009	3,835	2,189	200	1,680	**7,903**
2010	5,320	2,284	75	1,064	**8,743**
2011	4,784	1,544	60	842	**7,230**
2012	3,250	409	0	560	**4,219**
Total	**$26,345**	**$25,809**	**$4,795**	**$17,763**	**$74,712**

Source: GAO analysis of Argonne data.

DOE's cost estimates are based on the assumption that at least one of the two LEU fuels that Argonne is developing will be successful and will be used for the reactor conversion program. DOE also assumes that Russia and other countries will continue to assist Argonne in conducting fuel tests as necessary for fuel development. DOE's estimates do not include the cost of purchasing new LEU fuel to convert research reactors. These costs are expected to be funded by other DOE programs or by the operators of foreign research reactors.

39 Research Reactors That Converted to LEU Fuel under the Reactor Conversion Program

Country	Reactor	Fully converted	Partially converted
Argentina	RA-3	X	
Australia	HIFAR		X
Austria	ASTRA	X	
	TRIGA		X
Brazil	IEA-R1	X	
Canada	MNR		X
	NRU	X	
	Slowpoke-Montreal	X	
Chile	La Reina		X
Colombia	IAN-R1	X	
Denmark	DR-3	X	
France	OSIRIS	X	
Germany	BER-II	X	
	FRG-1	X	
Greece	GRR-1		X
Iran	NRCRR	X	
Japan	JMTR	X	X
	JRR-4	X	
Netherlands	HOR	X	
Pakistan	PARR	X	
Philippines	PRR-1	X	
Romania	TRIGA		X
Slovenia	TRIGA	X	
Sweden	R2	X	X
	R2-0	X	
Switzerland	SAPHIR		X
Taiwan	THOR	X	
Turkey	TR-2		X

(Continued From Previous Page)

Country	Reactor	Fully converted	Partially converted
United States	Georgia Institute of Technology	X	
	Iowa State University	X	
	University of Massachusetts at Lowell	X	
	Manhattan College Zero Power Reactor	X	
	University of Michigan	X	
	Ohio State University	X	
	Rhode Island Nuclear Science Center	X	
	Rensselaer Polytechnic Institute	X	
	University of Missouri at Rolla	X	
	University of Virginia	X	
	Worcester Polytechnic Institute	X	

Source: Argonne.

Note: The amount of HEU fuel used by these research reactors prior to conversion ranged from 0 to 70.1 kilograms per year. Reactors that use zero kilograms of HEU per year use HEU fuel but operate at such low power levels that they use up the fuel very slowly and can operate for many years or for their entire lifetime without replacing fuel.

Comments from the Department of Energy

Department of Energy
National Nuclear Security Administration
Washington, DC 20585

JUL 14 2004

Mr. Gene Aloise
Acting Director
Natural Resources and Environment
General Accounting Office
Washington, D.C.

Dear Mr. Aloise:

The National Nuclear Security Administration (NNSA) appreciates the opportunity to have reviewed the General Accountability Office (GAO) Draft Report, NUCLEAR NONPROLIIFERATION: DOE Needs To Take Action To Further Reduce the Use of Weapons-Usable Uranium in Civilian Research Reactors." We understand that the intent of this audit was for GAO to review the risks to national security of highly enriched uranium used in research reactors in Russia and countries of proliferation concern.

NNSA agrees with the recommendations contained within the draft report and notes that the U.S. has converted eleven of its research reactors to the use of Low Enriched Uranium (LEU) fuel – by far the largest number of reactor conversions in any single country. The U.S. has eleven more reactors to convert to the use of LEU fuels with six of these reactors currently being capable of using LEU fuels.

On May 26, 2004, in Vienna, Austria, the Secretary announced the Global Threat Reduction Initiative. The principal mission of the Initiative is to identify, secure, remove, or facilitate disposal of vulnerable high-risk nuclear and other radioactive materials around the world that pose a threat to the international community. This mission will be carried out by, among other things, accelerating ongoing nuclear material removal and research reactor conversion efforts. This will include accelerating efforts to convert the six domestic University research reactors that can convert using currently existing fuels. The new Office of Global Threat Reduction will work with other offices, such as the Office of Nuclear Energy, Science & Technology, as well as the Nuclear Regulatory Commission, in order to achieve this goal

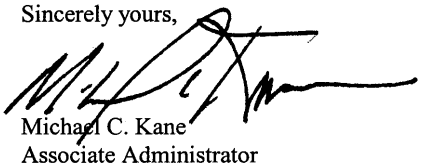
Conversion of the remaining five domestic reactors is not possible until higher-density LEU fuels have been developed, qualified, and made commercially available. Once such fuels are available, we will complete conversion of all U.S. research reactors.

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Through the U.S. Highly Enriched Uranium (HEU) minimization policy, we are working to ensure that no nation has a reason to continue to use HEU in civil nuclear activities. In order to achieve the goal of minimization and eventual elimination of the civil use of HEU, we are working through the RERTR program to convert reactor cores from HEU to LEU. Under the Initiative, we will work closely with the Department of State, other U.S. agencies, and our international partners to address holdouts to our efforts through a revised, re-invigorated, and comprehensive diplomatic and operation action plan, to include incentives. This strategy is intended to encourage full participation in the program.

Should you have any questions related to this response, please contact Richard Speidel, Director, Policy and Internal Controls Management. He may be contacted at 202-586-5009.

Sincerely yours,



Michael C. Kane
Associate Administrator
for Management and Administration

Comments from the Department of State

United States Department of State

Assistant Secretary and Chief Financial Officer

Washington, D.C. 20520

JUL - 1 2004

Ms. Jacqueline Williams-Bridgers
Managing Director
International Affairs and Trade
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "NUCLEAR NONPROLIFERATION: DOE Needs To Take Action To Further Reduce the Use of Weapons-Usable Uranium in Civilian Research Reactors," GAO Job Code 360374.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Allan Krass, Action Officer, Bureau of Nonproliferation, at (202) 646-3272.

Sincerely,

Christopher B. Burnham

cc: GAO – James Shafer
NP – John Wolf
State/OIG – Mark Duda
State/H – Paul Kelly

Department of State Comments on GAO Draft report:
NUCLEAR NONPROLIFERATION: DOE Needs To Take Action To Further Reduce the Use of Weapons-Usable Uranium in Civilian Research Reactors
(GAO-04-807, GAO job Code 360374)

The Department of State (DOS) thanks the General Accounting Office (GAO) for the opportunity to respond to their review of Nuclear "Nonproliferation: DOE Needs to Take Action To Further Reduce the Use of Weapons-Usable Uranium in civilian Research Reactors". The report is generally fair and accurate. State has only one criticism and one suggestion for additional content.

The criticism involves the parenthetical statement near the bottom of p. 4 that it will cost $5 to $10 million to convert each of the eight remaining US research reactors. This seems much too high, especially in view of the statement on p. 37 that DOE spent only about $10 million to convert 11 reactors between 1984 and 2000. Cost per reactor ranged from $0.4 to $1.6 million, with an average of less than $1 million. The DOE office that manages research reactors, Nuclear Energy Affairs (NE) has been reluctant to fund more conversions and has a tendency to overstate the potential costs to deflect pressure to spend money on them. Maybe there's a good reason why the final 8 should be 5 to 10 times more expensive to convert than the first 11, but frankly we doubt it.

State's suggestion is to include recognition of the growing number of new and planned research reactors that have decided to use low enriched uranium (LEU). This represents an understanding that modern world class reactors do not require high enriched uranium (HEU) to do high quality research and isotope production. The only exception to the rule is the reactor in Munich that GAO visited. It resisted for nearly a decade US efforts to get it to use LEU. The resistance was predicated on technical grounds, and the operators of the Research (Forschungs) Reactor Munich (FRM-II) still insist that only HEU is satisfactory for a high quality reactor. But more and more countries are taking the other path, and there are new reactors in South Korea and Canada and planned reactors in Thailand, France, China, Australia and Morocco that are designed to use LEU. This should be mentioned, perhaps on p. 6 at the end of the discussion on new fuel development, and perhaps again on p. 31 just before the recommendations section.

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